
(2003) 07 MAD CK 0009
In the Madras High Court
Case No : Writ Petition No. 21032 of 2003

R. Anthonisamy @ Ashok

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 30-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 07 MAD CK 0009

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : R. Singaravelan, for the Appellant; M.S. Palanisamy, AGP, for the Respondent

Judgement

P.D. Dinakaran, J.—Heard.

2.1. According to Mr. R. Singaravelan, learned counsel for the petitioner, the petitioner belongs to Kattu Naicken Community, a Schedule Tribe,

as per the Community Certificates dated 23.8.1980, 22.2.1982, 27.4.1987 and 18.6.1987. However, it is not in dispute that the District

Collector, Madurai, cancelled the community certificates of the petitioner, by proceedings dated 10.9.1988, against which the petitioner preferred

an appeal before the Special Commissioner and Commissioner of Revenue Administration, Chepauk, Chennai, which was dismissed by order

dated 10.4.1990. Hence, the petitioner preferred a revision to the Secretary to Government, Adi Dravidar and Tribal Welfare, Chennai-9, which

was also dismissed by order dated 26.4.1995.

2.2. In the meanwhile, the petitioner, contending that the order dated 14.6.1995 was not served on him, he moved this Court in W.P.No.2386 of

2000, wherein this Court, by order dated 15.11.2000, directed the Government

to furnish a copy of the order dated 14.6.1995.

2.3. On receipt of the order dated 14.6.1995, the petitioner again filed W.P.No.1838 of 2001 challenging the order of the Government dated

26.4.1995 and this Court, by order dated 19.2.2001, directed the Government revisional authority to consider all the grounds that are raised by

the petitioner. When the petitioner was thus called upon to appear for an enquiry on 20.1.2002 before the State Level Caste Scrutiny Committee,

the petitioner sought time to collect and submit additional documents in support of his claim. Hence, the hearing was adjourned to 6.2.2002. Again

the petitioner, by telegram dated 6.2.2002 sought an adjournment. Hence, the enquiry was adjourned to 7.3.2002.

2.4. In the meantime, the petitioner moved W.P.No.3018 of 2002, wherein this Court, by order dated 22.2.2002, directed the Secretary to the

Government, but not the State Scrutiny Committee to pass an order. Pursuant to the said directions of this Court dated 22.2.2002, the Secretary,

Adi Dravidar and Tribal Welfare Department, required the petitioner to appear for personal enquiry on 9.4.2002. The petitioner, by telex message

dated 8.4.2002, sought time on medical grounds and hence, the enquiry was adjourned to 29.4.2002.

2.5. After giving an opportunity to the petitioner, the Government, by proceedings dated 17.5.2002, rejected the revision, holding as follows:

It is obvious that the Constitution intends to give benefits of social and economic advancement, social equality of status and dignity of person by

providing reservation to SCs/STs in public services and Educational institutions. It is the duty of the State to ensure that the benefits reach the real

SC/ST and the persons responsible for such constitutional fraud and their abettors are brought to book. The Government received complaints from

various Government departments/ Educational institutions/Welfare organisations stating that supurious and ineligible persons have been issued false

SC/ST community certificates by the Revenue officials deliberately and carelessly without proper verification of documents and enquiry.

Incompetent and unauthorised revenue officials issued community certificates to ineligible persons.

The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate or misrepresentation or false/fake

certificates prepared by themselves or cheating the Revenue department or by some other means necessarily has the effect of depriving the genuine

SCs/STs as enjoined in the Constitution of the benefits conferred on them by the Constitution. This is nothing but cheating the Constitution and it

defeats the very noble aim of the Constitution. no Government instruct the authorities, viz. The Divisional Engineer, Telegraphs, Virudhunagar to

remove R. Anthonisamy alias Ashok from service forthwith and the District Collector, Madurai to ensure that criminal case is booked against him

for cheating the Constitution.

2.6. Against the order of the Secretary to Government dated 17.5.2002, the petitioner again filed W.P.No.20675 of 2002, which is still pending

before this Court. Therefore, it is clear that the community certificates relied upon by the petitioner stand cancelled by the Government as on date.

Hence, the second respondent, by proceedings dated 11.10.2002, proposed to take appropriate disciplinary action under the CCS (CCA) Rules,

1965. Aggrieved by the said proceedings, the petitioner has preferred this writ petition.

3. By the impugned proceedings dated 11.10.2002, the petitioner was only called upon to show cause why appropriate disciplinary action should

not be initiated against him to remove him from service and was given fifteen days time to submit his explanation.

4. The core contention of the learned counsel for the petitioner is that the impugned show cause notice is bad in law as the second respondent only

proposed to initiate disciplinary action against the petitioner without any open mind, but with a proposal to remove him from service, since the

impugned show cause notice also undertakes the proposed punishment. In this regard, reliance is placed on the decision of the Apex Court in

Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., .

5. In view of the above apprehension of the petitioner, suffice it to direct the respondents to frame the charges, appoint an enquiry officer, hold an

enquiry and to arrive at the findings on the charges, after giving a fair and reasonable opportunity to the petitioner, to which the petitioner

undertakes to cooperate.

6. The learned counsel for the petitioner also agrees that the enquiry could be ordered to be completed within six months from the date of receipt

of a copy of this order. Therefore, the respondents, after the completion of the enquiry, shall give an opportunity to the petitioner to submit his

objections to the findings of the enquiry officer and after receiving the objections of the petitioner to the findings of the enquiry officer, shall

consider the same and thereafter, shall issue a second show cause notice as against the proposed punishment. On receipt of the explanation of the

petitioner, the respondents shall pass appropriate orders on the same. However, it is made clear that the if any punishment is imposed on the

petitioner, the same shall be given effect to, but subject to the ultimate decision of this Court in W.P.No.20675 of 2002. In the meanwhile, it is also

made clear that the petitioner shall not be entitled to any further benefits that are meant for ST candidates.

The writ petition is ordered accordingly. No costs. WPMP Nos.26141 and 26142 of 2003 are closed.