

(1998) 11 MAD CK 0060

In the Madras High Court

Case No : Writ Petition No's. 1884 of 1997 and 9849-50 of 1998 and W.M.P. No's. 3145-46 of 1997 and 15071-72 of 1998

S. Natarajan

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 10-11-1998

Acts Referred:

Constitution of India, 1950 — Article 226, 342

Citation : AIR 1999 Mad 241

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : N. Kannadasan, for the Appellant; Manikumar, Addl. Govt. Pleader and M.P. Subbaiah of Row and Reddy for University, for the Respondent

Final Decision : Allowed

Judgement

S.S. Subramani, J.—W.P. 1884 of 1997 is filed by one S. Natarajan, who is the father of petitioners in W.P. 9849 and 9850 of 1998.

2. In the writ petition filed by the father, he sought for issuance of Writ of Certiorarified, Mandamus or any other writ of order calling for the

records relating to the proceedings in refer ence No. E.5.83341/96, dated 19-11-1996 of first respondent and consequential communication No.

BI/8672/96 dated 17-12-1996 of second respondent and quash the orders passed therein and forbear respondents 1 to 3 from in any manner

reopening the verification of petitioner's community status and pass such further orders.

3. In the affidavit, it is stated that petitioner belongs to Konda Reddy community which is one of the communities listed as Scheduled Tribe under

the Constitution (Scheduled Tribes) Order, 1950, passed by the President by

virtue of the powers conferred upon him under Article 342 of Constitution of India.

In the year 1978, third respondent bank called for application for the post of clerical cadre to which petitioner applied under the quota reserved for

Scheduled Tribes. Petitioner was selected and he joined third respondent Bank on 28-11-1978. At the time of joining duty petitioner produced

community certificate obtained from the Commissioner of Panchayat Union, Kayattar under whose jurisdiction petitioner's native village

Chockalingapuram falls. After his appointment his services were confirmed after completion of probation period.

4. Subsequently, petitioner also produced another community certificate dated 27-7-1986 issued by Tahsildar, Koilpatti wherein also it was

declared that petitioner belongs to Konda Reddi community. Petitioner was promoted as sub-accountant during 1985 and now petitioner is

employed in the main branch of third respondent bank.

5. In 1987, the Bank referred his community certificate for verification to first respondent. First respondent in turn referred the matter to District

Revenue Officer, Chidambaranar District and Revenue Divisional Officer, Koilpatti, who held detailed enquiry. Petitioner appeared before various

revenue authorities and produced various documents in support of his claim. First respondent through his report dated 6-12-1988, informed third

respondent that petitioner belongs to Konda Reddy community. Even at that time, even though there was no scope for second enquiry but

petitioner participated in the same and authorities also confirmed that he belongs to Konda Reddy Community.

6. It is the case of the petitioner that he belongs to Kovilpatti but he has been living in Madras for the past 22 years. From the date of joining third

respondent Bank, his family continues to live in Madras except for a brief period of three years due to his transfer on two occasions in 1985-86

and 1992-94. Even at that time, his family was living in Madras. Petitioner got two children, one daughter and one son studying plus two and 8th

standard respectively. He moved an application before Collector's office Madras for issuance of community certificate for his children for

educational purpose. Collector's office referred the application to first respondent with a request to forward the same to second respondent since

petitioner's native place falls at Kovilpatti, even though 4th respondent is competent to issue the community certificate since his family is residing at Madras and their names are also included in the electoral rolls of Madras.

7. As per the directions of the first respondent, second respondent again directed petitioner to appear vide communication dated 8-9-96 with

regard to issuance of community certificate in favour of his children. Petitioner again appeared before second respondent and produced all relevant

documents and informed the second respondent about the favourable findings already arrived at by revenue officials. Petitioner was not informed

about what has happened after enquiry in the office of second respondent.

8. The reason for filing this writ petition is that first respondent through his letter dated 19-11-1996 informed that he has come to know that

petitioner did not obtain permanent community certificate which is against the rules of Government and directed petitioner to obtain the same from

second respondent. Petitioner apprehends that such a letter came only at the mischief of some of the employees in the Collector's office, belonging

to other community who are prejudiced against the Scheduled Tribe community. First respondent also sent a copy of the letter to the Bank in order

to reopen the entire matter.

9. Third respondent on receipt of the communication wrote a letter to second respondent on 23-11-1996 requesting him for verification of the

community status of petitioner. According to the petitioner, repeated enquiries one after other for the purpose of verification is nothing but

harassment. There had been earlier verification and it has been confirmed that the petitioner belongs to Konda Reddy community and the Law

does not provide for repeated verification one after other until the authorities satisfy that the certificate issued stands cancelled. Such attitude on the

part of the respondents is arbitrary and amounts to harassment. It is under these circumstances, petitioner has come to this Court for the relief

stated above.

10. In the various grounds taken in the writ petition, it is said that the impugned communication dated 19-11-96 is illegal, unlawful and

unsustainable. It is also said that the community certificate issued on 19-9-1978 is valid and authorities cannot reopen the same. First respondent

has no jurisdiction in asking the employer to reopen the entire issue and the

action is only mala fide. Respondents 1 to 3 have no jurisdiction to verify the community certificate again in view of the favourable finding arrived after conducting elaborate enquiry. Merely because petitioner applied for community certificate for his children, first respondent cannot reopen the entire matter on the ground that petitioner has not applied for permanent community certificate.

11. A detailed counter-affidavit has been filed by the second respondent. It is admitted in the counter-affidavit that on 27-7-86, Tahsildar,

Kovilpatti issued community certificate to petitioner stating that he belongs to Hindu Konda Reddy community and that is a Scheduled Tribe. The

Bank in which petitioner is employed wanted a confirmation from the District Collector regarding the community status of petitioner and also a

confirmation letter sent to bank by the then Revenue Divisional Officer vide letter dated 13-12-1987. For the said purpose, then Revenue

Divisional Officer also conducted a fresh enquiry and sent his report dated 25-8-1988. In the meanwhile the Collector of Madras vide his letter

dated 5-1-1996 requested for local enquiry at Chockalingapuram, Kovilapatti Taluk and a report with reference to the request of petitioner for

community certificate for his children. Since his community certificate has been confirmed by the then Revenue Divisional Officer, the Revenue

Divisional Officer sent a detailed report to the Collector on 24-9-1996 with a copy of the report to the Collector. Thereupon the Collector,

Thoothukudi district in his proceedings dated 19-11-96, observed certain points in the issue of community certificate and instructed to issue a

permanent certificate to petitioner after making thorough enquiry. Thorough enquiry was made and report was sent to the Collector by letter dated

1-2-97.

12. It is said that petitioner filed writ petition for quashing the Collector's instructions dated 19-11-96 and subsequent communication dated 17-

12-96 of the Revenue Divisional Officer.

13. It is said that Konda Reddy community hails prominently in Andhra Pradesh. A person who claims that he belongs to Konda Reddy

community must have a community certificate or his origin or his father's origin to prove his claim. In the instant case the forefathers of petitioner

must have migrated to Tamil Nadu from Andhra Pradesh. Since petitioner could

not produce any certificate of his forefathers, there is nothing wrong to have an enquiry in the place of birth of petitioner in Kovilpatti Taluk. Petitioner was asked to appear for an enquiry on 6-9-96 and a report was sent on 4-9-96. Notwithstanding the report, Collector, Thoothukudi in his letter dated 19-11-96 issued instructions to the Revenue Divisional Officer, Kovilpatti to make a detailed enquiry and issue a permanent community certificate to the petitioner. As per the instructions, petitioner was enquired and after making local enquiries, a detailed report was sent to the Collector on 2-5-1988.

14. It is said that there is no mala fide intention and only because Bank, where petitioner is employed, asked for verification proceedings were initiated by the Collector for the issuance of permanent community certificate. A report was sent by Revenue Divisional Officer which is only based on earlier reports. Since Collector did not agree to the report, called for fresh enquiry, which necessitated to the letter dated 19-11-1996. It is said pursuant to the notice issued by Collector for personal enquiry petitioner also appeared for enquiry. The deponent also made a visit to Chockalingapuram village and a detailed study of status of community of petitioner is made and a detailed report was sent on 2-2-97. It is said that the Collector is competent authority either for cancelling the community certificate or upholding its correctness and a writ could not be issued at this stage. It prayed for dismissal of the writ petition.

15. The other two writ petitions are filed by the children of the petitioner in W.P. 1884 of 1997. In both these writ petitions, they seek direction to second and third respondents for issuance of community certificate in favour of them holding that they belong to Konda Reddy community, a Scheduled Tribe.

15-A. I heard the counsel on both sides.

16. Father is employed in the third respondent bank, which is a Nationalised Bank. He got his employment taking into consideration that he belongs to Konda Reddy community, a recognised Scheduled Tribe. At the time when he joined service, he produced community certificate dated 19-9-78 obtained from the Commissioner of Panchayat Union, Kayattar. Subsequently, after his confirmation he also produced another community certificate issued by Tahsildar, Kovilpatti, his native village which was

dated 27-7-86. Even during 1987, employer wanted a verification of his community status and a letter was written by the Bank to the District Collector, Tuticorin to make an enquiry. District Collector, Tuticorin, the first respondent in turn directed the Revenue Divisional Officer, Kovilpatti and Divisional Revenue Officer, Chidambaranar District for conducting detailed enquiry. After detailed enquiry, second respondent on 13-2-1987 issued his proceedings to District Revenue Officer. It could be seen that the Revenue Divisional Officer, Kovilpatti held detailed enquiry on the basis of documents produced before him and he certified that the father belongs to Korida Reddy community and the bank was informed accordingly. Tahsildar, Kovilpatti also informed District Revenue Officer as per his proceedings dated 31-12-87 that petitioner belongs to Konda Reddi Community. It could be seen that the proceedings dated 13-2-87 issued by Revenue Divisional Officer, Kovilpatti was informed to District Collector, Tuticorin and not satisfied with the same, he wrote a letter back to the Tahsildar to make enquiry and report the same. It was pursuant to the same, Tahsildar wrote to District Revenue Officer after holding detailed enquiry that father Natarajan belongs to Konda Reddy community. The District Collector, Tuticorin as per his proceedings dated 6-12-88 also informed the Bank that petitioner belongs to Konda Reddy community.

17. After 8 years, the question is raked up only when petitioner wanted community certificate for his children. Exploiting his request, the entire matter was now reopened and District Collector, requested the Revenue Divisional Officer, Kovilpatti to enquire the community status of the petitioner. On 24-9-1996, Revenue Divisional Officer, Kovilpatti informed District Collector that petitioner belongs to Konda Reddy community. District Collector was not satisfied with the same and he directed petitioner that he should obtain permanent community certificate and further directed that he should present himself before the Revenue Divisional Officer, Kovilpatti with necessary documents. The very same authority who has already certified that petitioner belongs to Konda Reddy community has now sent notice to the petitioner that he intends to hold enquiry on 6-1-97. It is this proceeding is challenged in this writ petition.

18. I find that there is some justification in the petitioner coming to this Court

questioning the jurisdiction of the authorities in issuing notice for enquiry. As could be seen from the various proceeding, filed along with the typed set of papers that authorities have recognised the petitioner as a member of the Konda Reddy community. Even in 1986, Tahsildar has issued a certificate that he belongs to Konda Reddy community. The authorities have not questioned the certificate till date and on that date Tahsildar was competent authority to issue community certificate. That certificate was also produced before the Bank and the same was accepted by them.

19. In the decision reported in R. Kandasamy Vs. Chief Engineer, Madras Port Trust, , their Lordships held that Community certificates issued to Scheduled Tribes by Tahsildar prior to 11-11-89 is good and valid community certificate for all purposes so long as such certificate is not cancelled. Their Lordships in that case held that so long as the community certificate issued by the Tahsildar is prior to 11-11-1989, is valid and it is not proper for the authorities to insist for a fresh certificate to be produced by the Revenue Divisional Officer or any other authority. According to me on the basis of this decision of Honourable Supreme Court it was not proper on the part of the Bank to confirm the community status to which petitioner belong. Till date, Bank has no doubt about the genuineness of the certificate issued by Tahsildar in 1986.

20. In spite of the same, the Bank wrote to the first respondent in 1987 to confirm about the community of the petitioner and petitioner boldly appeared for enquiry before Revenue Divisional Officer and produced all documents in his possession. On 13-2-1987, the then Revenue Divisional Officer declared that petitioner belong to Konda Reddy Community. This letter dated 13-2-1987 was intimated to the District Revenue Officer, Tuticorin who in turn wrote to Tahsildar, Kovilpatti also. On 25-8-1988. Tahsildar again wrote to District Revenue Officer after holding a independent enquiry that petitioner belong to Konda Reddy community. Thereafter, the matter was also intimated to the District Collector, Tuticorin who inturn accepted the report and informed the Bank that petitioner belongs to Konda Reddy community and there is no doubt about the genuineness of the claim put forward by the petitioner, That was in the year 1988. On the basis of the letter dated 6-12-1988 of all

proceedings came to an end and petitioner was also treated as member of Konda Reddy community. The certificate produced by him was also

found to be genuine and nobody doubted the correctness of the certificates produced by the petitioner. It has become final.

21. Unfortunately, petitioner had to apply for community certificate for his children to continue their education. That was in the year 1996 when he

was residing in Madras. He moved an application before the Collector, Madras who in turn requested the Revenue Divisional Officer, Koilpatti to

hold an enquiry and report the same. The request was only for the purpose of issuing community certificate for his children. The Revenue Divisional

Officer held an enquiry and certified on 24-9-1966 that petitioner and his children belong to Konda Reddy community. The District Collector

could have issued a Certificate then and there. But he was not satisfied with the report of the Revenue Divisional Officer. He wanted further report

from him after detailed enquiry. According to me such an act on the part of the District Collector is most improper. On earlier occasion, certificate

issued to the petitioner was subject to verification of detailed enquiry and authorities were satisfied that it was genuine certificate. Once the same

had become final, repeated enquiry is barred.

22. A Division Bench of this Court in the decision reported in (1985) 98 Mad LW 10.5S.P. Sakthi Devi v. Collector of Salem held that even

though the authorities are competent to verify the correctness of the certificate on the request of the employer, once a report has been received that

the certificate is genuine, the certificate holder cannot be further harassed to prove his case or community in any other manner. At page 111, the

Division Bench gave its conclusion thus,

1. A caste/community certificate issued by an empowered public authority under seal continues to be a valid document till it is cancelled by the

said authority or by his superior authority.

2. Their contents are to be treated as correct and every public authority undertakings, bodies, institutions, etc. which are bound by instructions

relating to such certificates, are bound to act upon them, so long as they are not cancelled.

3. In no disciplinary proceedings, their genuineness or correctness of their contents can be gone into.

It is open to the department or employer or organisation to ask the issuing authority or District Collector, as the case may be, to verify whether the certificate as issued could be still valid, on material which have since come to their knowledge. They can appear in the verification enquiry and place the materials.

4. If the certificate is cancelled, then disciplinary proceedings can be initiated for having furnished false information.

5. Appointing authorities have the right to verify the genuineness of the certificates by approaching the District Magistrate Collector of the District

or such other constituted authority and once the report is received that the certificate is genuine, thereafter the certificate holder cannot be further

harassed to prove his caste/community in any other manner.

23. The same principles was followed by Justice Sathiadev in the orders in W.P. 417 of 1985 and W.P. 8402 of 1985. In W.P. No. 417 of 1985,

His Lordship held that,

The certificate once obtained and verified; would not require repeated verifications, unless, the required circumstances for a further investigation is

called for and then while taking action for cancellation, the burden of establishing non-genuineness of existing certificate will be on the authorities,

In W.P. 8402 of 1985, in paragraph 12 of the judgment, it is held thus,

Third respondent having already certified the genuineness of the certificate issued on the enquiry conducted by this Additional P.A., respondents 1

and 2 are therefore precluded from addressing any other authorities seeking for any verification regarding the certificate issued to the petitioner by

Tahsildar, Saidapet. They are found to treat for as belonging to Konda Reddy Community.

24. In this case, there is no change of circumstances. The community certificate was found to be true and genuine by the District Collector in 1988

and that has become final. The only circumstances now is petitioner asked for community certificate for his children. That will not be a ground for

questioning his community certificate. There is no change of circumstances as on date.

25. In the counter-affidavit, it is said that the employer sought for verification. I do not think that the submission of the counsel based on the

statement in the counter-affidavit in that regard is correct. I find from the typed

set of papers that the proceedings dated 9-11-1986 was sent to the Manager, Central Bank of India and it was on that basis the question was again raked up. It was the District Collector who has reopened the matter and not on the request of the employer. It is most improper on the part of the District Collector to inform the Bank, when the request was only for the issuance of community certificate for his children. When the matter was intimated to the Central Bank, Bank immediately wrote back to the Revenue Divisional Officer on 23-11-1996 pursuant to which notice was issued to petitioner asking him to appear for an enquiry on 6-1-1997. For the past 20 years, petitioner who has been serving in the bank is continued to be harassed, even after the finding by the very same authority that he belongs to Konda Reddy Community.

26. An agreement was taken by the learned Government Pleader that the proceedings of the District Collector was only on the basis of G.O.Ms.

No. 781 dated 2-5-1988. I do not think that the said Government Order has any application now. It takes effect from 2-7-1988. Even before that petitioner filed his community certificate and even now the same is found to be valid. By virtue of this G.O., proceeding initiated never invalidated.

In all proceedings initiated earlier are at the instance of the employer also it has been found that the Certificate submitted by petitioner are true and he belongs to Konda Reddy community. There is no ground for reopening the same.

27. In view of the above, I hold that petitioner in W.P. 1884 of 1997 belongs to Konda Reddy community and certificate produced by him before

the third respondent Bank is genuine and no circumstance is made out to hold enquiry and proceedings initiated against petitioner is unwarranted

and therefore the same are quashed. There is no necessity for petitioner to produce a fresh community certificate or permanent community

certificate, and the certificate produced by him fully satisfies the requirement under law to hold that he belongs to Konda Reddy community.

28. W.P. Nos. 9849 and 9850 of 1998 are filed by the children of the said Natarajan seeking issuance of community certificate. In view of my

finding that Natarajan is belonging to Konda Reddy community, naturally, petitioners are also entitled to get certificate as prayed for. The Revenue

Divisional Officer as per his proceedings dated 24-9-1996 also has held that all of

them belong to Konda Reddy community. In view of my finding in the earlier paragraphs, (sic?) certificate for his children. When (sic) there will be a direction to the respondents in writ petitions 9849 and 9850 of 1998 to issue community certificate to the petitioners and I direct them to do so within a period of ten days from today.

29. In the result, all the writ petitions are allowed as above. No costs. Consequently, W.M.P. Nos. 3145, 3146 of 1997 and 15071 and 15072 of 1998 are closed.