

(2009) 07 MAD CK 0007

In the Madras High Court

Case No : Writ Petition No's. 26020 and 26021 of 2008

S. Ravichandran

APPELLANT

Vs

The Hindustan Petroleum Corporation Limited

RESPONDENT

Date of Decision : 20-07-2009

Acts Referred:

Citation : (2009) 07 MAD CK 0007

Hon'ble Judges : S.J. Mukhopadhaya, J;Raja Elango, J

Bench : Division Bench

Advocate : K. Raja, for the Appellant; D. Sreenivasan, Additional Government Pleader, P. Raghunatha Reddy, for King and Partridge, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—As both the writ petitions have been preferred by the same petitioner, they are heard together and disposed of by

this common order.

2. The petitioner obtained a community certificate on 10th May, 1989 from the Tahsildar, Purasawalkam-Perambur Taluk, Chennai that he

belongs to Hindu Adi-dravida community. On the basis of the said certificate, he was employed in the respondent-Hindustan Petroleum

Corporation Limited (hereinafter referred to as ""the Petroleum Corporation""). The Chairperson of the District Vigilance Committee constituted by

the State issued notice on 8th July, 2008 to the Petroleum Corporation to instruct the petitioner to appear before the District Vigilance Committee

on 18th July, 2008 to verify the genuineness of the community certificate. Thereafter, the impugned order dated 25th July, 2008 was passed by

which the District Vigilance Committee cancelled the community certificate that was issued in favour of the petitioner. Based on the cancellation of

community certificate, the employer-Petroleum Corporation terminated the services of the petitioner on 19th September, 2008, communicated by letter dated 30th September, 2008. In Writ Petition No. 26021 of 2008, the petitioner has challenged the order dated 25th July, 2008, by which the District Vigilance Committee cancelled the community certificate and in Writ Petition No. 26020 of 2008, the petitioner has challenged the order of termination.

3. The main ground taken by the petitioner is that the District Vigilance Committee cancelled the community certificate without proper enquiry and without any show cause notice to the petitioner as was required in terms of the decision of the Supreme Court in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, and against the Government Order in G.O.(2D) No. 108, Adi Dravidar and Tribal Welfare (CV-I) Department dated 12th September, 2007.

4. A counter affidavit has been filed on behalf of the Petroleum Corporation. The main plea taken is that the petitioner was appointed against the reserved category post on the basis of the caste certificate. But the said certificate having been cancelled, the services of the petitioner have been terminated.

5. No affidavit is filed on behalf of the District Vigilance Committee and the averments made by the petitioner have not been denied.

6. We have heard the learned Counsel for the parties and perused the records. It will be evident that pursuant to the decision of the Supreme

Court in Kumari Madhuri Patil's case, the State of Tamil Nadu issued G.O.(2D) No. 108 dated 12th September, 2007 constituting the District

Level Vigilance Committee and the State Level Scrutiny Committee. In order to protect the welfare of the genuine Scheduled Castes/Scheduled

Tribes people from the false claimants, suitable guidelines were issued as per the Supreme Court direction. As per the annexure enclosed to the

Government Order aforesaid, the District Vigilance Committee is required to call for a report from the concerned local revenue authority by whom

such Scheduled Caste/Scheduled Tribe certificate was issued On receipt of the said report, if the Committee found that the claim for social status

to be "not genuine" or "doubtful" or spurious or falsely or wrongly claimed/ issued, the Committee concerned is supposed to issue a show cause

notice supplying a copy of the report of the verification authority to the candidate by registered post with acknowledgment due or through the head

of the concerned educational institution in which the candidate is studying or employed. The notice should indicate that the representation or reply,

if any, would be made within two weeks and in no case the request is not more than 30 days. In case the candidate seeks for an opportunity of

hearing and claims an enquiry to be made in that behalf, the Committee on receipt of such representation or reply shall convene the Committee and

give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. Notice is contemplated to be issued

on the parents/guardian also in case of minor children.

7. From the impugned order of cancellation of certificate dated 25th July, 2008, it appears that by a letter dated 1st August, 2000, request was

made to find out the genuineness of the community certificate. But there is nothing on the record to suggest that the Tahsildar who issued the

certificate submitted any report. Apart from the fact that the rejection order dated 25th July, 2008 is cryptic, do not talk of any record or report, it

has not been mentioned therein that a notice was given to the petitioner. Though the District Vigilance Committee has been impleaded as a party

respondent and is represented by the learned Additional Government Pleader, no affidavit is filed denying the averments made by the petitioner

that the Tahsildar has not submitted any report nor a copy of the same was forwarded to the petitioner along with the show cause notice. Mr. D.

Sreenivasan, learned Additional Government Pleader for the State submitted that the notice dated 1st August, 2000 was forwarded to the

petitioner through the Petroleum Corporation in connection with the verification of community certificate. The individual in his statement dated 8th

January, 2001 before the Additional Personal Assistant to Collector, Chennai stated that he had studied upto VIII standard and that his parents

were not educated and submitted his Transfer Certificate and that his wife Suseela belongs to Hindu Padayachi community. Further the Tahsildar,

by letter dated 5th February, 2002, reported that his native is Chennai District and that the individual had no sisters and brothers and the wife of

the petitioner belongs to Hindu Naicker community. Though such oral statement has been made without producing the relevant document, but it

has not been denied that the report of the Tahsildar was not forwarded to the petitioner to give an effective reply, as required under the instruction

contained in the annexure enclosed to the G.O.(2D) No. 108 dated 12th September, 2007.

8. In view of the fact that the procedure laid down has not been followed and the order of cancellation of community certificate has been issued

without following the procedure and in violation of the principles of natural justice, we set aside the order of cancellation of the community

certificate dated 25th July, 2008. The order of termination dated 19th September, 2008 being passed on illegal order of cancellation of certificate,

which has been set aside by us, the order of termination is also set aside. The petitioner stands reinstated with continuity of service. So far as the

backwages are concerned, taking into consideration of the nature of the case, we allow only fifty percent of the backwages in favour of the

petitioner. However, the matter stands remitted to the District Vigilance Committee, which in its turn may proceed with the matter in accordance

with law after supplying a copy of the report, if any, submitted by the Tahsildar and forwarding a copy of the show cause notice to the petitioner.

9. Both the writ petitions stand disposed of with the aforesaid observations, but there shall be no order as to costs. Consequently, M.P. No. 2 of

2008 is closed.