

(2000) 12 MAD CK 0052
In the Madras High Court
Case No : Writ Petition No. 803 of 1993

T. Radhakrishnan

APPELLANT

Vs

The District Collector, Tirunelveli Kattabomman District,
Tirunelveli and another

RESPONDENT

Date of Decision : 15-12-2000

Acts Referred:

Citation : (2000) 12 MAD CK 0052

Hon'ble Judges : T. Meenakumari, J

Bench : Single Bench

Advocate : Mr. N. Ishtiaq Ahmed, for the Appellant; Mr. S. Wilson, Government.
Advocate, for the Respondent

Judgement

1. The writ petition is for the issue of writ of certiorari to call for the records relating to the proceedings of the first respondent dated 20.12.1992

and made in his proceedings Na.Ka.No.A4/24600/90 and quash the same.

2. The case of the petitioner is that their family belong to Konda Reddy community which is a Scheduled Tribe. The petitioner did his schooling at

Trivandrum. The school authorities recorded the community of the petitioner as Reddiar. It is stated in the affidavit filed in support of the writ

petition that in the S.S.L.C. books of the petitioner's cousins namely one Anantharaman and Sujatha their community has been marked as Konda

Reddy community. The petitioner's uncle's daughter was also issued with a community certificate by the Revenue Divisional Officer,

Cheranmahadevi stating that she belongs to Konda Reddy community. In the year 1977, the petitioner applied to the Tahsildar, Radhapuram for

issuance of community certificate. After enquiry, the Tahsildar has issued the certificate on 21.6.1977 that the petitioner belongs to Konda Reddy

Community. The petitioner has registered his name with the Employment Exchange, Tirunelveli. On 13.5.1983 the petitioner was called upon for

an interview by Tuticorin Port Trust, Marine Department for the post of Fireman. At that time, the petitioner has produced the community

certificate issued by the Tahsildar on 22.6.1977. The petitioner was selected and joined duty on 27.6.1983 and confirmation was ordered on

27.6.1985. While so, some persons, have sent petitions to the higher authorities complaining that the petitioner does not belong to Konda Reddy

Community. On the basis of such petitions, the Chairman, Tuticorin Port Trust has asked the first respondent to verify about the genuineness of the

community certificate produced by the petitioner. The first respondent District Collector has in turn directed the second respondent Sub Collector

to enquire about the genuineness of the community certificate produced by the petitioner before his employer namely the Chairman, Port Trust.

Accordingly, the petitioner was issued with a notice dated 7.7.1983 to appear before the second respondent for enquiry. The petitioner appeared

before the second respondent on 27.2.1989. In the enquiry the petitioner has also submitted similar certificates issued to his relatives, by the

authorities concerned. However, the petitioner was issued with a notice dated 30.10.1990 by the first respondent to show cause as to why the

community certificate issued to the petitioner on 21.6.1977 by the Deputy Tahsildar, should not be cancelled. The report of the second respondent

was also enclosed with the said notice and the petitioner was asked to submit his explanation. The petitioner by letter dated 12.11.1990 requested

the first respondent to furnish the statements of the persons who were examined behind the back of the petitioner, by the second respondent. The

first respondent by letter dated 17.12.1992 forwarded the statements of those persons, to the petitioner. According to the petitioner, the

statements did not disclose the date on which those persons were examined. The petitioner has submitted his explanation on 6.4.1992 to the first

respondent. The petitioner has also filed the sworn statements of one Sudalai, Subbiah Konar, S. Somasundaram Sudalai and Subbiah Konar

stating that their statements have been recorded by the authorities concerned, under duress. In the explanation the petitioner has requested the first

respondent to reopen the enquiry. By letter dated 8.4.1992, the first respondent has called upon the petitioner to appear for the enquiry on

27.4.1992. On 27.4.1992, the petitioner appeared before the first respondent and submitted a detailed written submission, According to the

petitioner, the first respondent refused to examine the persons who accompanied the petitioner. The petitioner's father alone was examined.

However, by proceedings dated 20.12.1992, the first respondent District Collector has cancelled the community certificate issued to the petitioner

by the Deputy Tahsildar, Radhapuram on 21.6.1977. The said order of the first respondent District Collector, is impugned in this writ petition.

3. Learned counsel for the petitioner has argued that the petitioner at his young age, was issued with a community certificate that he belongs to

Konda Reddy and there was no occasion for the petitioner to get such community certificate only for the purpose of his employment. Learned

counsel has also submitted that the petitioner having obtained the employment in Tuticorin Port Trust, due to personal enmity, some persons have

complained against the petitioner with regard to the community certificate issued to him which resulted in the enquiry and finally cancelling the

community certificate issued to the petitioner. Learned counsel for the petitioner has further argued that though the petitioner has produced as many

documents as possible with the statements of his relatives to prove that the petitioner belongs to Konda Reddy S.T. class, the first respondent

District Collector has rejected those documents and the petitioner has not been given sufficient opportunity to put forth his case before the first

respondent. Instead, the District Collector has relied upon the statements of the local persons namely Sudalai, Subbiah and Arumugam who have

stated that the petitioner belongs to forward class Reddiar and not Konda Reddy S.T. class. Based on those statements, the District Collector

came to the conclusion that the petitioner did not belong to Konda Reddy S.T. class and he belonged to Hindu Reddiar, a forward community.

Learned counsel for the petitioner has argued that as no sufficient opportunity of hearing was afforded to the petitioner to putforth his claim that he

belongs to Konda Reddy S.T. community, the impugned order passed by the first respondent canceling the community certificate issued to the

petitioner, is liable to be set aside. Learned counsel for the petitioner has relied upon the decisions of this Court in T. Sukumaran v. Syndicate

Bank, Madras and others (W.P.No.1861 of 1997 dated 11.12.1998) and N. Rajeswari v. The District Collector Nellai Kattabomman District,

Tirunelveli, 2000 (1) MLJ 267.

4. Learned Government Advocate appearing for the respondents submitted that the first respondent District Collector after going through the

documents and other statements of the witnesses and after considering the report of the Sub Collector, has cancelled the community certificate

earlier issued to the petitioner and the impugned order is sustainable.

5. In T. Sukumaran's case W.P.No.1861 of 1997, dated 11.12.1998, learned single Judge of this Court, at para. 15, has held as follows:

In the light of what is stated above, the impugned order of the second respondent dated 12.1.1997 is quashed and the matter is remitted to the

second respondent that is, Collector, Tirunelveli District for fresh disposal. I make it clear that, while reconsidering the matter, the second

respondent is expected to follow various principles laid down by this Court, as well as the Apex Court with regard to the matter in question and

pass appropriate orders after affording adequate opportunity to the petitioner. Till such order being passed by the second respondent the first

respondent is hereby directed not to take any action including terminating the services of the petitioner on the basis of order of the second

respondent dated 12.1.1997.

6. In N. Rajeswari's case, 2000 (1) MLJ 267, this Court has relied upon the decision of this Court reported in D. Selvaraj v. Bharat Heavy

Electricals Limited, 1991 WLR. 68 wherein this Court has held that the Sub Collector's report based on the statement of persons who were not

examined in the petitioner's presence cannot be relied upon. In the same case, this Court has also relied upon the decision of the Supreme Court in

R. Kandasamy Vs. Chief Engineer, Madras Port Trust, wherein the Supreme Court has held as follows:-

In our opinion the community certificate issued to a Scheduled Tribe candidate by the Tahsildar prior to 11.11.1989 is a good and valid

community certificate for all purposes so long as such a certificate is not cancelled. The authorities cannot decline to take that into consideration

and insist upon a fresh Community Certificate from the Revenue Divisional Officer.

7. Writ Petition No.1861 of 1997 filed by the petitioner's brother T. Sukumaran was allowed by the learned single Judge. In this case also it is not

in dispute that the second respondent has submitted his report basing on the

statement of persons who were not examined in the presence of the petitioner. The documents produced by the petitioner were rejected by the first respondent District Collector in toto on the ground that they were created for the purpose of the case. The first respondent District Collector has not verified the authenticity of those documents. Under the circumstances, following the principles laid down by this court in D. Selvaraj's case, 1991 WLR 68, by the Supreme Court in R. Kandasamy Vs. Chief Engineer, Madras Port Trust, and also by this Court in N. Rajeswari's case, 2000 (1) MLJ 267, it has to be held that the orders passed by the first respondent canceling the community certificate of the petitioner is liable to be quashed and the same is accordingly quashed. The writ petition is allowed. No costs. The matter is remitted back to the first respondent District Collector for passing fresh orders after affording an opportunity of hearing to the petitioner with reference to the documents. Liberty is given to the petitioner to file his objections if any to the statements made by the persons behind his back and relied upon by the second respondent Sub Collector.