

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/11/2002

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.17754 OF 1996

R. Shiyamalanathan .. Petitioner

-Vs-

1. The District Collector,
Tirunelveli Kattabomman District,
Tirunelveli.

2. The Revenue Divisional Officer,
Tirunelveli Kattabomman District,
Tirunelveli.

3. The Sub-Collector,
Cheranmahadevi,
Tirunelveli Kattabomman District.

4. Indian Overseas Bank,
rep. by Chief Manager,
Personnel Department,
Central Office, P.Box No.3765
762, Anna Salai, Chennai 2. .. Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.N. Kannadasan

For Respondents 1-3 : Mrs.N.G. Kalaiselvi,
Special Govt. Pleader

For Respondent-4 : Mr.N. Srinivasamurthy for
Mr.N.G.R. Prasad

:O R D E R

Heard the learned counsels appearing for the parties. In this writ petition, the question relates to validity of the order of the District Collector, Tirunelveli Kattabomman District. The petitioner has challenged the order of cancellation of community certificate dated 13.11.1996.

2. Learned counsel appearing for the petitioner has contended that the District Collector has passed the impugned order cancelling the community certificate, but as per the decision of the Supreme Court in A.I.R. 1995 S.C. 94 (MADHURI PATIL v. ADDITIONAL COMMISSIONER, TRIBAL DEVELOPMENT) the question of validity of the community certificate should be gone into by the appropriate committee constituted in accordance with the said decision.

3. Learned counsel appearing for the petitioner has also submitted that even assuming that the District Collector had jurisdiction, the order of the District Collector suffers from serious illegalities as several documents have not been taken into consideration.

4. Learned counsel for the fourth respondent has submitted that the matter had gone to the Collector pursuant to the remand order passed by this Court. Therefore, determination by the Collector cannot be said to be illegal. He has further submitted that at the time the Collector decided the matter, the State Government had not formed any committee and therefore, it must be taken that the Collector has jurisdiction to deal with the matter.

5. It is of course true that the matter had been remanded to the Collector for fresh determination. The non-constitution of a committee till April, 1997 cannot be a ground to ignore the decision of the Supreme Court reported in A.I.R. 1995 SC 94. As a matter of fact, subsequently in 2000(10)J.T.280 (BASWANT v. STATE OF MAHARASHTRA), cancellation of the community certificate is found to be void as the matter was not decided by the committee as per the decision in A.I.R. 1995 SC 94.

6. I had the occasion to deal with similar matter in the decision reported in 2002 W.L.R. 380 (K. PRAKALATHAN v. THE DISTRICT COLLECTOR, TIRUNELVELI KATTABOMMAN DISTRICT AND OTHERS), where following the decision reported in A.I.R. 1995 SC 94 and the decision of the learned Judge of this Court in judgment dated 14.8.2001 in W.P.No.16904 of 19 95 (N. SETHURAM v.

THE DISTRICT COLLECTOR, TIRUNELVELI KATTABOMMAN DISTRICT AND OTHERS), it was held that the order passed by the Collector cancelling the community certificate after the decision of the Supreme Court in A.I.R. 1995 SC 94 is without jurisdiction. As a matter of fact similar view has been taken in the judgment dated 26.6.2002 in W.P.No.11966 of 1995 and in the judgment dated 4.10.2002 in W.P.No.17568 of 1995.

7. Having regard to all these aspects, the order passed by the District Collector, Tirunelveli Kattabomman District dated 13.11.1996 is quashed and it is directed that the matter is to be redetermined by the appropriate State Level Committee in accordance with law as expeditiously as possible, preferably within a period of six months from the date of communication of this order.

The writ petition is allowed accordingly. No costs. Consequently, W.M.P.NO.24440 of 1996 is closed.

Index : Yes
Internet : Yes
dpk

To

1. The District Collector,
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Tirunelveli.

2. The Revenue Divisional Officer,
Tirunelveli Kattabomman District,
Tirunelveli.

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