

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/10/2003

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THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.15417 of 1998

R.Santhanam .. Petitioner

-Vs-

1. The Collector
Chennai District
Rajaji Salai, Chennai-1.

2. The Regional Provident Fund Commissioner
20, Royapettah High Road
Chennai-14.

3. The Regional Provident Fund Commissioner
Sub Regional Office
103-A, St.Thomas Street
High Road
Tirunelveli-11. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.K.Rajkumar

For Respondents : Mr.M.S.Palanisamy,
Additional Govt. Pleader for R1
Mr.Bhaskar for R2 & R3

:ORDER

Aggrieved by the proceedings of the first respondent dated 21.1.1998 cancelling the community certificate of the petitioner dated 22.12.1986 to the effect that he belongs to 'Sholaga' Community, a scheduled tribe, the petitioner has preferred this writ petition for issue of a writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent made in No.P4/28914/87, dated 21.1.1998, quash the same and to forbear the respondents herein from in any manner proceedings against the petitioner either departmentally or in respect of verification of the community status of the petitioner, viz., 'Sholaga' community.

2. In *MADHURI PATIL Vs. ADDL. COMM. TRIBAL DEVELOPMENT* reported in AIR 1995 SC 94, the Apex Court, while dealing with the rights of the Scheduled Tribes under the Constitution, has held as under:

"The Preamble to the Constitution promises to secure to every citizen social and economic justice, equality of status and of opportunity assuring the dignity of the individual. The Scheduled Tribes are inhabitants of intractable terrain regions of the country kept away from the mainstream of national life and with their traditional moorings and customary beliefs and practices, they are largely governed by their own customary code of conduct regulated from time to time with their own rich cultural heritage, mode of worship and cultural ethos. The Constitution guarantees to them, who are also Indian citizens, equality before law and the equal protection of law. Though Articles 14 and 15(1) prohibit discrimination among citizens on certain grounds, Article 15(4) empowers the State to make special provisions for advancement of Scheduled Castes and Scheduled Tribes. Article 16(1) requires equality of opportunity to all citizens in matters of appointments to an office or a post under the Union or a State Government or public undertakings etc. But Article 16(4) empowers the State to make provision for reservation of appointments or posts in favour of classes of citizens not adequately represented in the services under the State. Article 46 enjoins the State by mandatory language employed therein, to promote with special care the educational or economic interest of the Scheduled Tribes and Scheduled Castes and to protect them from "social injustice" and "all forms of exploitation".

Article 51-A(h) enjoins every citizen to develop scientific temper, humanism and the spirit of inquiry and reform. Again Article 51-A(h) requires every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. It is, therefore, a fundamental duty of every citizen to develop scientific temper and humanism and spirit of inquiry to reform himself in his onward thrust or strive to achieve excellence in all spheres of individual and collective activity. Since the Scheduled Tribes are a nomadic class of citizens whose habitat being generally hilly regions or forests, results in their staying away from the mainstream of the national life. Therefore, the State is enjoined under our Constitution to provide facilities and opportunities for development of their scientific temper, educational advancement and economic improvement so that they may achieve excellence, equality of status and live with dignity. Reservation in admission to educational institutions and employment are major State policies to accord to the tribes, social and economic justice apart from other economic measures. Hence, the tribes, by reason of State's policy of reservation, have been given the exclusive right to admission into educational institutions or exclusive right to employment to an office or post under the State etc. to the earmarked quota. For availing of such exclusive rights by citizens belonging to tribes, the President by a notification specified the Scheduled Tribes or tribal communities or parts of or groups of tribes or tribal communities so as to entitle them to avail of such exclusive rights. The Union of India and the State Governments have prescribed the procedure and have entrusted duty and responsibility to Revenue Officers of gazetted cadre to issue social status certificate, after due verification. It is common knowledge that endeavour of States to fulfil constitutional mandate of upliftment of Scheduled Castes and Scheduled Tribes by providing for

reservation of seats in educational institutions and for reservation of posts and appointments, are sought to be denied to them by unscrupulous persons who come forward to obtain the benefit of such reservations posing themselves as persons entitled to such status while in fact disentitled to such status. "

3. The Constitution Bench of the Apex Court in STATE OF MAHARASHTRA Vs. MILIND reported in (2001) 1 SCC 4 held that certain privileges and benefits are conferred on such people belonging to Scheduled Tribes by way of reservations in admission to educational institutions (professional colleges) and in appointments in services of State, in order to protect and promote the less fortunate or unfortunate people who have been suffering from social handicap, educational backwardness besides other disadvantages. The object behind such constitutional right is noble and laudable besides being vital in bringing a meaningful social change. The Constitution Bench has further observed that if these benefits are taken away by those for whom they are not meant, the people for whom they are really meant or intended will be deprived of the same and their sufferings will continue. Therefore, it was held that allowing the candidates not belonging to Scheduled Tribes to have the benefit or advantage of reservation either in admissions or appointments leads to making mockery of the very reservation against the mandate and the scheme of the Constitution.

4. Admittedly, against the impugned order dated 21.1.1998 passed by the first respondent, an appeal lies before the State Level Caste Scrutiny Committee. If that be so, suffice it to permit the petitioner to prefer an appeal before the State Level Caste Scrutiny Committee within fifteen days from the date of receipt of copy of this order and on receipt of the same, the State Level Caste Scrutiny Committee, shall dispose of the appeal, on merits, within sixty days thereof, of course after giving a fair and reasonable

opportunity to the petitioner. It is also made clear that pending such final decision in the matter, the respondents shall not consider the petitioner for any future promotion which is meant only for Scheduled Tribe candidates.

This writ petition is disposed of accordingly. No costs.

Index : Yes

Internet : Yes

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To:

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