

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.07.2024**

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

***Suo motu* W.P.No. of 2024**

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai – 9.
2. The Secretary to the Government of India,
Ministry of Tribal Affairs,
Sasthri Bhavan,
New Delhi - 100 001.
3. The Principal Secretary to Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai - 9.
4. The Director General of Police,
Mylapore,
Chennai - 4.
5. The District Collector,
Kallakurichi District,
Kallakurichi.

6. The District Collector,
Salem District,
Salem.
7. The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
8. The Superintendent of Police,
Salem District,
Salem.

... Respondents

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The factual matrix transpired in the interview broadcasted by various T.V. channels given by Mr.K.R.Tamilmani, learned Senior Advocate, Madras High Court, prompted this Court to initiate the present *suo-motu* writ petition. In order to protect the socio-economic status of the downtrodden Scheduled Caste and Scheduled Tribes people residing in various hamlets in Kalvarayan hills.

2. The interview given by Mr.K.R.Tamilmani, the learned Senior Advocate reveals that Malayalee community is a tribal one living in few

district in Salem, Namakkal, Vellore, Kallakurichi District etc., A few hundreds years ago Vizayanagaram emperor Krishna Devarya ruled Kancheevaram. He gifted 100s of villages in the then South Arcot and Salem Districts to the ancestors of three Malayalee Jagirdhars viz., (1) Sadaya Goundan (2) Kurumba Goundan and (3) Arya Goundan. Areas gifted to 1 and 2 fall under the present Kallakurichi District. The Araya Goundan area falls in Salem District. The area of this 100 Villages is roughly about 1000 Sq.Km.

3. These 3 Jagirdhars were the mini rulers and the said entire community was their subjects. These 3 Jagirdhars refused to join with the territory of India till 25th June 1976 and only during emergency they were forced to handover these areas occupied by them by the then District Collector of South Arcot District.

4. The first ever election in this 1000 Sq.km was held only in 1996. Earlier there were no welfare activities like schools, roads, hospitals, employment opportunity and no police station too. The lack of growth and progress in these area continued even thereafter. Men and women resorted to manufacture and sale of illicit arrack. It appears that there are no Bus

Transport and Roads. The affected area falling in Salem District is little better than other area. But manufacture and sale of illicit arrack flourished in both the districts. Thus, poverty and want of livelihood forced men and women to resort manufacturing of illicit arrack.

5. In the wake of Kallakurichi hooch tragedy, there has been reports of illicit liquor manufactured in the nearby place of Kalvarayan hills. The area in and around Kalvarayan hills has many small villages and inhabited by people especially from the Scheduled Caste and Scheduled Tribe community. The region is reported to be underdeveloped lacking basic facilities and due to the economic backwardness and unemployment in the region, the people living in these areas are being forced to resort to manufacturing of illicit liquor for their livelihood. In spite of the illicit liquor prohibition in the State of Tamil Nadu, the Kallakurichi tragedy has taken place, which has led to loss of lives and the people most affected are from the vulnerable sections of the society thereby warranting immediate action. Though contemplation of measures to prevent further such incidents need to be deliberated by the Government, this Court would like to bring to the fore the plight of the people involved and pushed into the business of

manufacturing illicit liquor. There has been discussions about the economic sufferings of the marginalised sections of the people living in the Kalvarayan hills. And to sustain themselves and their families, they have been forced to carry on the business of manufacturing illicit liquor.

6. This Court feels that this particular area in the Kallakurichi & Salem Districts needs immediate social and economic attention and the history of the region reveals that the Kalvarayan hills was annexed with the Government of India only in the year 1976 and till then, it was not a part of India. Thus, the history of the region and the present condition deserves the immediate attention and measures to ensure that people of that regions are able to access the basic facilities and welfare schemes, and the Government should take all steps to bolster the economic situation in the region to prevent further such crimes.

7. This Court on many previous occasions have invoked *suo motto* cognisance in issues affecting the interest of the public. Though the Court does not normally step in of its own accord, there are always exceptional circumstances, when the Court feels that it has to act to protect the larger

interest of the public or to protect the rights of the vulnerable and voiceless sections of the society. The people inhabiting the Kalvarayan hills are from economically and socially backward sections of the Society and their fundamental right to life under Article 21 need to exercised to the fullest. Article 21 includes a wide array of rights including Right to economic empowerment of the poor, disadvantaged and oppressed, Right to Health, Right to livelihood, Right to live with human dignity, Right to social and economic Justice.

8. The Hon'ble Supreme Court of India in the case of ***Muralidhar Dayandeo Keskar v. Vishwanath Pandu Barde*** reported in ***(1995) Supp.2 SCC 549***, quoted Elliot Dodds in his "Liberty and Welfare", 1957 Ed. at p.17 stated that "welfare is actually a form of liberty in as much as it liberties men and from social conditions which narrow their choices and brighten their self development. Article 46 of the Constitution mandates the State "to promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from socio injustice and all forms of exploitation."

9. Dr.B.R.Ambedkar, while winding up the debates on the Draft Constitution, stated on the floor of the Constituent Assembly that the real reason and justification for inclusion of the Directive Principles in the Constitution is that the party in power in disregard of its political ideologies, will not sway away by its ideological influence but "should have due regard to the ideal of economic democracy which is the foundation and the aspiration of the Constitution." "Whoever may capture the governmental power will not be free to do what he likes to do in the exercise of the power. He cannot ignore them. He may not have to answer for the breach in a court of law, but he will certainly have to answer for them before the electorate when the next election comes."Dr.Ambedkar further stated that:

We must make our political democracy a social democracy as well. Political democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union or trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy....In politics we will be

recognising the principles of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one vote one value...If we continue to deny it for long, we will do so only by putting out political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.

10. In the above Judgment, the Hon'ble Supreme Court of India in para.22 reiterated that "Economic empowerment to the Dalits and tribes is one of the principles of economic justice envisaged under Article 46 of the Constitution. Equality of opportunity by providing 20% reservation in the distribution of the fair price shops in the district to the Dalits and tribes, was held to be valid and does not violate Articles 14 and 19 of the Constitution."

11. In the case of *J.P.Ravidas and Others Vs. Navyuvak Harijan Utthapan Multi Unit Industrial Cooperative Society Ltd., and others* reported in (1996) 9 SCC 300, the Hon'ble Apex Court observed that:

"Socio-economic content in directive principles is all pervasive to make the right to life meaningful to all citizens of our great Nation. Welfare is actually a form of liberty inasmuch as it liberates man from social conditions which narrow their choices and brighten their self-development in a world of vastly unequal opportunities, where some are born into relative affluence and others into a subsistence economy. Liberation does not mean providing mere liberty but facilities to prevent their exploitation through all legitimate means so as to relieve the disadvantaged from perpetual inequalities. Democracy is workable as long as there is a substantial area of shared values and aspirations amount the people and where they have the maturity to rise above differences."

12. The economic underdevelopment faced by the people in Kalvarayan hills must not give space for miscreants to exploit their sufferings by pushing them into illicit liquor business. This is an issue that needs to be dealt with at the earliest and all comprehensive measures for the economic and social upliftment of the people in this region, is a Constitutional priority. It is for all concern to ensure that the Constitutional mandates, directives,

principles and views are not only honoured, but implemented in its letter and spirit.

13. In view of the human crises as discussed above, we are inclined to initiate *suo-motu* writ petition against the following Authorities:

- (i) The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai – 9.
- (ii) The Secretary to the Government of India,
Ministry of Tribal Affairs,
Sasthri Bhavan,
New Delhi - 100 001.
- (iii) The Principal Secretary to Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai - 9.
- (iv) The Director General of Police,
Mylapore,
Chennai - 4.
- (v) The District Collector,
Kallakurichi District,
Kallakurichi.

- (vi) The District Collector,
Salem District,
Salem.
- (vii) The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
- (viii) The Superintendent of Police,
Salem District,
Salem.

14. The Registry has to implead the above Authorities as respondents 1 to 8 in the present writ proceedings.

15. The Registry is directed to place the present *suo motu* writ petition before the Hon'ble the Acting Chief Justice for passing appropriate orders.

(S.M.SUBRAMANIAM, J.) (C.KUMARAPPAN, J.)
01.07.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

S.M.SUBRAMANIAM, J.

Suo Motu W.P.No. of 2024

AND
C.KUMARAPPAN, J.

veda

Suo motu
W.P.No. of 2024

01.07.2024