

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 30.04.2015
(Reserved on 30.03.2015)

Coram:-

The Hon'ble Mr. Justice V.DHANAPALAN
and
The Hon'ble Mr. Justice T.RAJA

Writ Petition No.17180 of 2014
and
M.P. No.1 of 2014

Shesha Karthik, B.M. (Minor)
Rep. by Natural Guardian and Father
Dr. P.M.Munireddy,
Perumalapalli,
Thummanapalli Post,
Hosur Taluk,
Krishnagiri District. ... Petitioner

vs.

1. State rep. by
The Commissioner and Secretary,
Social Welfare Department,
Fort St. George,
Chennai 600 009.

2. The District Collector,
Krishnagiri District,
Krishnagiri.

3. The Sub Collector,
Hosur, Krishnagiri District.

4. The Registrar,
Gujarat National Law University,
Organizing University for Common Law
Admission Test (CLAT) 2014,
Atlalika Avenue,
Knowledge Corridor,
Koba, Gandhi Nagar 382 007
Gujarat.

5. The Registrar,
National Law University of India,
Kathajodi Campus,
Sector 13 CDA,
Cuttack,
Odisha 753 015.

6. The Secretary to Government,
State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare
Department, Secretariat,
Chennai-9. (R6 suo motu impleaded
as per order dated 01.07.14).... Respondents.

Writ Petition under Article 226 of the Constitution of India for the issuance of a writ of certiorari mandamus to call for the records pertaining to the order passed by the third respondent Sub Collector in Na.Ka.2383/2014 (A-4) dated 27.06.2014 denying Community Certificate to the petitioner student, quash the same and consequently direct the third respondent to issue Community Certificate to the petitioner student stating that he belongs to "Konda Reddis" which is a Scheduled Tribe based on the Final Community Certificate issued to his father P.M.Munireddy on 07.07.1990 by the previous Sub Collector.

For Petitioner : Mr.P.T.Perumal
For R1 to R3 & R6 : Mr.R.Rajeswaran,
Special Govt. Pleader.
For R4 & R5 : Mr.T.Mohan,
for Mr.S.Anbazhagan.

O R D E R

T.RAJA, J.

The present Writ Petition has been filed by Shesha Karthik, B.M. (Minor), represented by his Natural Guardian and Father-P.M.Munireddy, seeking to quash the impugned order passed by Respondent No.3/Sub Collector, Hosur, Krishnagiri District, vide Na.Ka.2383/2014 (A4), dated 27.06.2014, in and by which, the request of the petitioner for issuance of Community Certificate to the effect that he belongs to 'Konda Reddis - Schedule Tribe' was turned down.

2. Mr.P.T.Perumal, learned counsel appearing for the petitioner, at the first instance, would advert to the core factual aspects in brief, by submitting that the petitioner's father-P.M.Munireddy belongs to 'Konda Reddis' Community in Hosur Taluk which Community is

notified as 'Scheduled Tribe' (in short ST) as per the Notification issued by R1/Social Welfare Department. The Community Certificate issued by the Deputy Tahsildar, Hosur, on 09.08.1977 to the petitioner's father was submitted by him to the Department of Collegiate Education, Karnataka, while joining duty as Lecturer in 1977. Soon after joining the Teaching Service in the Department of Collegiate Education at Karnataka, one of his rivals by name T.V.Subba Rao/Head of the Department of Telugu, Bengaluru University, raised an allegation to the State Government of Tamil Nadu that Munireddy, without being a Member of 'Konda Reddis' community, had underhandedly obtained the ST Community Certificate. In view of such complaint, R2/District Collector, Krishnagiri, directed the Tahsildar, Hosur, to conduct an enquiry with reference to the community status of the petitioner's father/Munireddy having regard to the allegations made by T.V.Subbarao. After due enquiry, a fresh Community Certificate was issued to Munireddy on 04.02.1978, and on 10.05.1978, the Tahsildar submitted a Report to the District Collector finding that the petitioner's father is a member of 'Konda Reddis'. Consequently, based on the Report of the District Collector, the Government had sent a reply to T.V.Subbarao stating that the Community Certificate issued to the petitioner's father was a genuine document and that he belongs to 'Konda Reddis' community/ST. Even after the issue was thereby concluded, at the instigation of some other person, the then Sub-collector served a notice dated 16.09.1985 upon the petitioner's father, calling upon him to appear before the said Authority on 23.09.1985 for further enquiry to verify his caste status. Aggrieved by issuance of such notice even after a previous thorough enquiry whereby the community status of the petitioner's father was ultimately confirmed, he had moved a writ petition in W.P. No.13352 of 1985, seeking issuance of a mandamus against the respondents not to conduct any further enquiry pursuant to the impugned notice therein. While allowing the said writ petition with costs, Sathiadev, J. (as His Lordship then was) not only found that once the process of verification was completed, the Sub-Collector had no jurisdiction at all to issue the impugned notice therein but also remarked that the required restraint had not been exhibited by the Authority concerned before issuing the impugned proceedings. Aggrieved by the same, when an appeal in W.A. No.1054 of 1986 was filed, by Judgment dated 25.04.1989, the Division Bench had affirmed the order of the learned single Judge holding that there was no reason to interfere with the conclusion reached by the learned single Judge. After the aforesaid litigations, ultimately, on 07.07.1990, the then Sub Collector, Hosur, had issued Final Community Certificate stating that the petitioner's father belongs to 'Konda Reddis'/ST, with a recital in the certificate that the it was issued based on the judgments delivered in W.P. No.13352 of 1985 and W.A. No.1954 of 1986.

3. In the light of the factual scenario outlined, learned counsel would assail the impugned rejection order by stating that when the

issue relating to community category of the petitioner's father was already concluded leaving no ambiguity about his community status as ST/'Konda Reddis', it goes without saying that, having made the request for issuance of the Community Certificate on the strength of the document issued in favour of his father, his son deserves automatic grant of the same. While so, in spite of the petitioner submitting all relevant documents including the Transfer Certificate issued by Kendriya Vidyalaya, Railway Colony, Bengaluru, wherein, it is categorically mentioned that the petitioner belongs to ST category, very unfortunately, the third respondent on whimsical reasonings, declined to issue the Community Certificate. It is pointed out that the petitioner, who aspired for Higher Studies in Science, took the CLAT (Common Law Admission Test) 2014 and also got selected for First Exercise List as per the Communication sent by the CLAT Authorities on 10.06.2014, whereupon, initial admission fee of Rs.1 lakh was also paid for the given allotment in R-5/National Law University of India (NLUO), Cuttack, for BBA-LLB, however, as per the admission intimation sent by R-5, the petitioner shall have to submit all required documents and Certificates on 02.07.2014. Even though the Application seeking issuance of Community Certificate for the petitioner was made on 30.05.2009 and it was followed by repeated personal visits, the authorities remained indolent, which attitude rather compelled the petitioner to file W.P. No.15654 of 2014 seeking a direction to R-3 to forthwith issue Community Certificate and, by Order dated 18.06.2014, a Division Bench of this Court disposed of the case with a direction to the third respondent to consider the application of the petitioner on merits and in accordance with law. But the third respondent, without properly appreciating the actual facts and the underlying merits, unfortunately declined to accede to the genuine plea of the petitioner, resulting in the present litigation. He also added that, in the light of the judgments resulted in favour of the petitioner's father whereby, any further enquiry into his community status was held to be out of jurisdiction and thereby, the category of the petitioner's father as a member of the 'Konda Reddis' is concluded with the issuance of the Final Community Certificate, the respondents cannot re-litigate as the principles of res judicata also clearly apply here.

4. By citing a decision of this Court in P.Vinoth v. The Sub-Collector, Ranipettai (2012-Writ L.R.-474), he would submit that when certificates issued to the parents are relevant materials to decide the community status of the children and therefore, due weightage must be given to such certificates; the third respondent has no independent authority to refuse issuance of the community certificate to the petitioner. It is further submitted that when it is found that already a Certificate was issued for the father of the petitioner to the effect that he is a member of 'Konda Reddis' and that the validity and authenticity of such Certificate having been concluded, R-3 has no option except to issue the community certificate for the

son/petitioner and it is not proper on the part of a successor in office to simply ignore the certificate issued by the competent authority in accordance with the guidelines issued by the Government earlier in favour of the petitioner's father. In other words, the authorities cannot apply two different standards in the matter of issuing community certificate for the members of the same family, that too, for a father and his son. So submitting, learned counsel pleaded for grant of the prayer as sought for.

5. Per contra, Mr.R.Rajeswaran, learned Special Government Pleader for R1 to R3 and R6, would submit that the petitioner's father is originally a native of Perumalpalli Village of Hosur Taluk of Krihsnagiri District, but after his studies, he migrated to Karnataka for profession and put up his residence there although he frequents to Perumalpalli. The Transfer Certificate of the petitioner, who had studied in Kendriya Vidyalaya in Bangalore, although reflects his Community status as an ST, it is the general practice in the schools to note the community of the students on the mere oral saying and therefore, the Transfer Certificate is not an authenticated document to arrive at a conclusion relating to the community category. In fact, on the representation made by the petitioner's father, seeking the 3rd respondent to issue 'Konda Reddis' ST Certificate for his son, an enquiry was conducted which revealed that the petitioner belongs to 'Reddy'/Forward community, hence, the request of the petitioner could not be entertained, resulting in passing of a rejection order on merits. The petitioner had filed W.P. No.15654 of 2014 for a direction to the respondents to issue 'Konda Reddis' ST Certificate and by order dated 18.06.2014, the representation of the petitioner was ordered to be considered on merits and as per law for passing orders. Pursuant to such direction, a detailed enquiry was conducted in which all relevant records were verified. The said enquiry revealed that the petitioner does not belong to 'Konda Reddis' and that he is a Member of 'Reddy' Forward Community. It also came to light in the course of the enquiry that none of the close relatives of the petitioner in the Village has obtained the 'Konda Reddis' Community Certificate. That apart, in the office copy of the Admission Register of the Panchayat Union middle School in Perumalapalli village, the caste of the petitioner's father is entered as 'Hindu Reddy'. A scrutiny of his higher study records at the Government Arts College also revealed his caste as 'Reddy'. Even though some of the documents especially the primary school records specify his caste as 'Konda Reddy', the inconsistency among various records shows that even if the respondents accept the authenticity of his primary school documents, the required certificate could not be issued since it is shocking to note that the High School, Higher Secondary School, Graduate, Post Graduate and Doctoral College entries of the petitioner's father carry the caste only as 'Reddy'. Thus, it is apparent that the petitioner's father manipulated and attempted to submit forged documents as evidence while he was issued ST Certificates earlier by the Deputy Tahsildar

and Assistant Collector, Hosur. According to the learned Additional Government Pleader, in view of the apparent and lurking inconsistencies, the third respondent rightly declined to issue the community certificate sought for by the petitioner and hence, there is no scope for interference.

6. Learned counsel for R-4 and R-5 would submit that R-4/Gujarat National Law University being the CLAT Organizing Unit, its responsibility is limited to the conduct of the CLAT, preparation of the Merit List and issuing the Provisional Allotment list of the candidates, and it is the responsibility of the individual National Law University to verify whether a provisionally allotted candidate was suitable for admission as per the reservation policy in vogue by verifying the necessary documents/certificates and to admit the student as against the appropriate vacancy/seat. In regard to R-5/National Law University of India, while submitting that at the time of admission, the University was not aware of the dispute relating to the community certificate of the petitioner, it is stated that the student/petitioner was admitted under the ST category as per his Transfer Certificate issued by the Kendriya Vidyalaya Sangathan, Bangalore Region. Based on the Community Certificate issued for the student's father and his undertaking that the Community Certificate of his son would be produced within three months time, the student was admitted into BBA-LLB Course at National Law University Odisha, Cuttack, and he is continuing his studies there as on date. According to him, the Universities have no role to play on the present dispute.

7. We have carefully considered the rival submissions advanced on either side and meticulously perused the materials available on record.

8. The only blended issue that arises for consideration in this writ petition is as to whether the respondents/authorities are justified in denying issuance of 'Konda Reddis'/ST Community Certificate to the petitioner when his father was issued with such Certificate not only at the first instance after a thorough enquiry but also finally, after the order/judgment passed by this Court in a Writ Petition and Writ Appeal; and, as to whether the principles of res judicata operate against the action of the respondents inasmuch as the said authorities, in a way, facilely re-opened the issue relating to the community status of the petitioner's father even after the same reached the ultimate finality?

9. Originally, the petitioner's father was issued with the Community Certificate by the Deputy Tahsildar, Hosur, to the effect that he belongs to 'Konda Reddis' notified as ST by the Social Welfare Department. On the basis of the said Community Certificate issued on 09.08.1977, he got appointment as Lecturer in the Department of Collegiate Education at Karnataka. On a complaint from one T.V.Subbrao/HOD of Telugu, Bengaluru University, alleging that

the petitioner's father does not belong to ST category, the Government of Tamil Nadu directed R2/District Collector, Krishnagiri, to conduct an enquiry on the allegation raised by the said T.V.Subba Rao; whereupon, an enquiry was conducted through the Tahsildar, Hosur. On completion of the enquiry, a Report was submitted to the District Collector on 10.05.1978 to the effect that the petitioner's father belongs to 'Konda Reddis' and that the Community Certificate originally issued in that regard was valid. In fact, the said Report of the District Collector refers to a number of records including the Community Certificate issued for M.Venkatesa Reddy/Brother of the petitioner's father and also sale deeds of the year 1922 and 1926 and it was categorically found that the individual produced recorded evidence of the year 1922 which gives proof that he belongs to 'Konda Reddy' Community and that further, according to school records also, he belongs to 'Konda Reddy' Community; and as such, the Certificate issued by the Deputy Tahsildar, Hosur, is based on valid record and the allegation made by T.V.Subba Rao is not borne on facts. Subsequently, on 22.05.1978, while making reply to the said Subba Rao, Head of the Department of Telugu, Bangalore University Gnaa Bharathi, Bangalore, it was clearly stated by the Deputy Secretary to Government, Revenue Department, Fort St. George, Chennai-9, that the Certificate issued by the Deputy Tahsildar, Hosur, is based on valid record and the allegation is not borne on facts. Consequent thereto, a fresh Community Certificate was issued to the petitioner's father by the Assistant Collector, Hosur, on 30.11.1982.

10. Again, at the instigation of some other person, the then Sub-Collector, Hosur, issued a notice dated 16.09.1985, calling upon the petitioner's father to appear on 23.09.1985 for further enquiry to verify his caste status. Since he was already issued with a Community Certificate that too after clearance of the allegations in a full-fledged enquiry conducted at the instance of the Government/District Collector, he was constrained to file Writ Petition No.13352 of 1985 by expressing his grievance that merely because certain persons inimically disposed of towards him have petitioned, it should not result in himself being summoned more than once to justify the correctness of the caste claimed by him which had already been verified and finalized by the District Collector, Dharmapuri. While allowing the said Writ Petition with costs by Order dated 24.04.1986, Sathiadev, J. (as His Lordship then was) had commented upon the illogical action of the authorities by observing thus:-

"4. Hence, after process of verification is completed, the Sub-Collector, Hosur, had no jurisdiction to issue the impugned notice claiming that he intends to verify the correctness of the certificate held by the petitioner. If at all on making discreet investigations, if it is found that the certificate held by him is vitiated by fraud, or produced by illegal means and the like then the only course open to the issuing authority is to take

action for cancellation. There is considerable difference between initiating proceedings for taking action for cancellation and process of verification as contemplated in the brochure. If it is to be cancelled, burden is upon authority to show how earlier declaration on verification was wrong and only thereafter Certificate holder, has to produce materials. The impugned notice had been issued for the purpose of verification, and therefore the Writ Petition is allowed.

5. It is necessary to point out that inimical feelings between relations or co-workers, should not necessarily result in public authorities spending their time and energy in initiating actions at their call and command. They have to exercise their discretion and take up prudent decision, as to how far there is any necessity existing for initiating any further action, once a firm decision had been already taken. Unless this restraint exists, valuable time of public authorities will be consumed in wasteful enquiry, merely because some are interested in their personal enmity being channelised by public enquiries. There is considerable material existing in this case to take the view that the required restraint had not been exhibited, before issuing the impugned proceedings. Hence, the Writ Petition is allowed with costs."

When the said order of the learned single Judge was challenged by the State through Writ Appeal No.1054 of 1986, vide Judgment dated 25.04.1989, the Division Bench had declined to interfere with the Order passed by the learned single Judge, and the operative portion of the said Judgment reads thus:-

"2. The writ petition was filed aggrieved by the notice issued by the first respondent in the writ petition calling upon the petitioner to appear for an enquiry regarding the community certificate originally issued to the writ petitioner-appellant herein. It appears that the Collector who in the proper authority for issuing such a certificate, on an earlier occasion, had given after verification, a finding which the learned Judge has extracted as follows:-

" The applicant has produced recorded evidence of the year 1922 which gives proof that he belongs to 'Konda Reddy' Community. Further according to School records also he belongs to the 'Konda Reddy' Community. As such the Certificate issued by the Deputy

Tahsildar, Hosur, is based on valid record and the allegation is not borne on facts."

In view of the finding of the Collector as noticed above, the learned Judge has held that there is no scope for further enquiry in the matter. On that ground only the learned Judge has allowed the writ petition and we see no reason to interfere with the conclusion of the learned Judge. Accordingly, the writ appeal is dismissed. No costs."

11. When by virtue of the above Order and Judgment passed earlier by a learned single Judge and Division Bench respectively of this Court, the community status of the petitioner's father was ultimately decided and given a finality about three decades back, clearly concluding that he belongs to 'Konda Reddis' ST Community and further, a Final Community Certificate was also issued wherein the said two case numbers find reference, the present endeavour of the respondents in jumping back into the issue relating to the caste of the petitioner's father so as to reject the request of his son for issuance of a Community Certificate on the strength of the one issued to his father, clearly amounts to non-application of mind and arbitrary exercise of power. Further, in the present writ petition, the respondents endeavour to justify the impugned order of rejection by mainly finding fault with the documents relating to the petitioner's father; therefore, in our considered opinion, inasmuch as the authorities have now raised a suspicion on the issue well settled by the decisions of this Court rendered both by the learned single Judge and the Division Bench, the principles of res judicata operate here in these writ proceedings as well, as against the authorities. In other words, it operates in any subsequent proceedings in the same writ jurisdiction in which the issue had already been determined and concluded. Further, it must be borne in mind that when the proceedings had attained finality, parties are bound by the judgment and they are estopped from questioning it by raising a different issue. They cannot litigate again on the same cause of action nor can they litigate any issue which was necessarily a decision in the earlier litigation. Therefore, there cannot be any justification for the authorities to go into the authenticity of the community certificate or the documents based upon which such certificate was issued to the petitioner's father and, inasmuch as the Final Community Certificate issued to the petitioner's father stand as the strong basis for issuing the Community Certificate to his son, due weightage must be given to the same.

12. It is also apt to refer to the following portions from the decision of this Court in P.Vinoth case (cited supra):-

25. In case certificates were issued by the Competent Authority after detailed enquiry and in accordance with the guidelines, those certificates need not be sent to the Scrutiny Committee. Such Certificates, along with other relevant documents, can be the basis for issuing certificates to the blood relatives. Even in such cases, if the Revenue Divisional Officer entertains a bona fide and reasonable doubt about the validity, genuineness or correctness, it is open to the said authority to send the certificate to the District Vigilance Committee/State Level Scrutiny Committee for verification. It is not proper on the part of a successor in office to simply ignore the certificate issued by the Competent Authority in accordance with the guidelines issued by the Government earlier or subsequent to the Judgment in Kumari Madhuri Patil.

26. We have come across several orders passed by the Revenue Authorities rejecting the request to issue Community Certificate to the children on the basis of the Community Status Certificate issued to the parents. The certificates issued to the parents are relevant materials to decide the Community Status of the children. Therefore, due weight should be given to such Certificates. The issue of certificates to the children on the strength of the caste certificates issued to the parents after proper enquiry should be the rule."

(emphasis supplied)

In the light of the observation of this Court in P.Vinoth's case, which is squarely applicable to the case on hand and of the fact that the Community Status of the petitioner's father as belonging to 'Konda Reddis' Community of ST category has become final and concluded about three decades ago that too after the decisions of this Court, the request made by him to issue Community Certificate to his son on the basis of the Final Community certificate issued to him, in our opinion, cannot be declined by the respondents, particularly, when they have not even whispered here that the impugned action is based on any change of event like conversion of the petitioner to other religion or community, etc.

13. In this view of the matter, we allow the writ petition by directing the third respondent to issue Community Certificate to the petitioner on the strength of the Certificate issued to his father, mentioning that he belongs to 'Konda Reddis'/Scheduled Tribe, within a period of three weeks from the date of receipt or production of a copy of this Order. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

II.

To

1. The Commissioner and Secretary, Social Welfare Department, Fort St. George, Chennai 600 009.
2. The District Collector, Krishnagiri District.
3. The Sub Collector, Hosur, Krishnagiri District.
4. The Registrar, Gujarat National Law University, Organizing University for Common Law Admission Test (CLAT) 2014, Atlalika Avenue, Knowledge Corridor, Koba, Gandhi Nagar 382 007, Gujarat.
5. The Registrar, National Law University of India, Kathajodi Campus, Sector 13 CDA, Cuttack, Odisha 753 015.
6. The Secretary to Government, State Level Scrutiny Committee, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai 9.

+ 2 CCs to M/s. P.T.Perumal, advocate SR 24371

+1cc to Mr.S.Anbazhagan, Advocate SR.No.24411

1 CC to the Government Pleader SR NO 24748

WP No.17180/14.

mp[co]
gp/25.05.2015