

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No. 3541 OF 2006**

**ORDER:**

Seeking quashing of the order dated 07.02.2005 passed in L.C.I.D.No.118 of 2004 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (hereinafter referred to as second respondent), the present writ petition came to be filed.

The facts in issue are as under:

On 03.04.1979, the first respondent herein was appointed as Brush Painter in the office of the first petitioner under reserved quota of Scheduled Tribes basing on a social status certificate showing his caste as "Yenadi" (S.T.). In the year 1994, a complaint was received from Andhra Pradesh Scheduled Tribes Association, Visakhapatnam, stating that the first respondent secured employment by producing a false caste certificate. Basing on the said complaint, the caste certificate produced by the first respondent was referred to the District Collector, Visakhapatnam, for verification of its genuineness. After due enquiry, the District Collector, Visakhapatnam is said to have held that the certificate submitted by the first respondent at the time of initial appointment is bogus as he does not belong to "Yenadi" caste. Basing on the said report, the first petitioner initiated departmental enquiry and accordingly dismissed the first respondent from service. Questioning the same, the first respondent filed L.C.I.D.No.118 of 2004 before the second respondent.

It is contended that though the petitioners herein filed a counter before the second respondent in L.C.I.D.No.118 of 2004 stating that the report of the District Collector, Visakhapatnam vide Rc.No.5337/95, TW dated 25.06.1997 establish that the first respondent herein does not belong to Yenadi caste (a scheduled tribe) and that the report of the Mandal Revenue Officer, Pendurthi vide Dis.No.198/96C dated 21.01.1996 further establishes that the first respondent herein belongs to telaga caste which is a forward community, but without considering the same, the second respondent passed the following order.

“Hence, I hereby direct the respondent to reinstate the petitioner within 30 days after publication of this award on the minimum pay, he will be recruited on the post held at the time of dismissal and the respondents shall refer the matter in writing to the concerned District Collector for cancellation of the said certificate under Section 5 of the Act. Hence, the impugned order dated 25<sup>th</sup> May, 2001 dismissing the services of the petitioner is hereby set aside. However, if the petitioner is not reinstated he shall be entitled for pay after one month of publication of this award only till the matter is decided by the District Collector. The question of payment of back wages will abide by the findings of the District Collector to whom a formal written complaint should be made and the Collector shall conduct enquiry under Section 5 of the Andhra Pradesh (SC, ST and BC's) Regulation of issue of Community Certificates Act, 1993 and Rules 1997 after giving opportunity to the petitioner.”

Challenging the said order, the petitioners, who are respondents therein, filed the present writ petition.

The only ground urged by the learned counsel for the petitioners is that the order of the second respondent in ordering an enquiry by the District Collector, when there is already a report, is illegal and improper. She further submits that in view of the material on record, the second respondent erred in ordering

reinstatement of the first respondent herein.

On the otherhand, the learned counsel appearing for the first respondent opposed the same contending that the order under challenge warrants no interference, since there is no illegality or impropriety in the order passed.

As stated above, the learned counsel for the petitioners mainly contended that the authority erred in ordering the District Collector to re-enquire into the matter in view of the earlier enquiry report. But it is to be noticed that no such report is placed before the second respondent. The said report which is sought to be relied upon by the petitioners is not placed before this Court also. Learned counsel for the petitioners though relied upon certain averments in para No.3 of the order to show the existence of an enquiry conducted by the District Collector with regard to the caste of the first respondent herein, but a reading of the said para, does not anywhere indicate as to whether any enquiry was conducted and if so, whether it was in accordance with the provisions of the Andhra Pradesh (SC, ST and BC's) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997. In the absence of any material to show that there was an enquiry by the District Collector in terms of Section 5 of the Andhra Pradesh (SC, ST and BC's) Regulation of Issue of Community Certificates Act, 1993 and as the petitioners failed to produce or summon the said report before the second respondent or before this Court, it cannot be said that the order under challenge is incorrect or illegal.

Having regard to the circumstances stated above and taking into consideration the facts and circumstances of the case, I see no grounds to interfere with the order under challenge.

Accordingly, the writ petition is dismissed. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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**JUSTICE C. PRAVEEN  
KUMAR**

09.12.2015  
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