

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.34793 OF 2013

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ORDER:

In this Writ Petition, the petitioners question the order dt. 23.10.2013 passed by the 2nd respondent rejecting their applications seeking admission as members of the Fishermen Cooperative Society, Wyra (3rd respondent).

02. The petitioners belong to BC-B (Dudekula) community. They submitted applications to the 3rd respondent Society seeking admission into the said Society. By impugned order dt.23.10.2013, referring to G.O.Ms.No.74, Animal Husbandry, Dairy Development and Fisheries (F.II) Department, dated 21.10.2011, the 2nd respondent rejected the applications of the petitioners on the ground that the caste to which the petitioners belong is not included in the list of 30 Fishermen Communities mentioned in G.O.Ms. No.98, Revenue Department, dated 22.01.1964.

03. The petitioner contends that G.O. Ms. No.74 Animal Husbandry, Dairy Development and Fisheries (F.II) Department, dt.21.10.2011 does not exclude the people from other communities, who are not mentioned in the list of 30 Fishermen Communities in G.O.Ms. No.98, Revenue Department, dt.22.01.1964, but only gives priority to persons who belong to the said 30 communities mentioned in the said G.O.Ms.98, and without there being such restriction confining the membership of Fishermen Cooperative Societies only to members of those communities, the 2nd respondent had excluded the petitioners arbitrarily and illegally.

04. In the counter affidavit filed by the 2nd respondent, while admitting that only 695 members are there in the 3rd respondent Society and there is scope admit to 1219 members more in the said Society, the said 2nd respondent states that the Government Order had restricted membership only to 30 Communities mentioned in G.O.Ms. No.98, Revenue Department, dated 22.01.1964 and that is why the applications of the petitioners came to be rejected.

05. Clause (G) of G.O. Ms. No.74 Animal Husbandry, Dairy Development and Fisheries (F.II) Department, dated 21.10.2011 reads as follows:

“At the first instance all those applicants from the communities listed in the G.O. 1st read above (and Gangaputras), who possess the skills (as per the five tests prescribed above) and residing in the area of operation of the proposed (of existing society in case of bifurcation) Society, and not ineligible as per 4(b) of model bye-laws, Sec.19 and 21 of APCS Act 1964 should be provisionally selected. If the number of such skilled applicants is more than the viability norm (one has/beneficiary) the following selection process should be adopted in order of priority:

i) Poorest of the poor (POP) among the applicants.

(POP) list is available with the IKP/ SERP officials)

ii) Even after the above step, if the number is still more than the norm of one hectare water spread area per member, the age criteria should be followed eliminating people of higher age group to start with (for example 60 years to be eliminated in preference to 50 years and so on).

The District Fisheries officer shall send the proposal for the formation of the Fishermen's Cooperative Society along with the video recording and proceeding of the three men committee to the Commissioner of Fisheries.

The observer shall submit his report on the entire selection process independently to Commissioner of Fisheries.”

06. A reading of the above clause states that the first preference should be given to the persons belonging to the 30 communities mentioned in G.O.Ms. No.98, Revenue Department, dated 22.01.1964, but the said G.O. does not restrict membership only to persons belonging to those communities. The 2nd respondent has obviously misread this G.O. and misunderstood its purport. Therefore the impugned order cannot be sustained.

07. The Writ petition is accordingly allowed; the impugned order dt.23.10.2013 passed by the 2nd respondent is set aside; and the 2nd respondent is directed to consider the applications of the petitioners for admission in to the 3rd respondent Society strictly in accordance with G.O. Ms. No.74 Animal Husbandry, Dairy Development and Fisheries (F.II) Department, dated 21.10.2011 without reference to the castes to which the petitioners belong. This exercise shall be completed within eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

08. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M.S. RAMACHANDRA RAO, J

Dt.20-11-2015

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