

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

–
WRIT PETITION No.8921 of 2004

ORDER:

Heard the learned Counsel for the petitioner and none appeared for the respondents.

This Writ Petition was filed challenging the orders of the first respondent in G.O.Ms.No.37, Social Welfare (CV.2) Department, dated 27.04.2004, confirming the order of the second respondent dated 02.10.2002.

The petitioner hails from Mamilligudem Village, Hamlet of Kummuru of Khammam District. He belongs to Koya community. His father was employed in Municipality, Rajahmundry, East Godavari District, and was retired from service on superannuation as Junior Assistant. While the petitioner's father was working at Rajahmundry, his father got married to his mother in the year 1961. The petitioner's mother belongs to Reddy community. The petitioner is the fourth issue to their parents and he was born in the year 1968 at Rajahmundry. In all the educational records, he was shown as belonging to Scheduled Tribe community. After completion of his studies he was appointed as Class-IV employee in the Central Tobacco Research Institute, Rajahmundry, in the year 1992 and was promoted as technician T1 on 23.10.2001. The employer addressed a letter to the Revenue Divisional Officer, Bhadrachalam, Khammam District – fourth respondent herein, for verification of the social status of the petitioner. The fourth respondent conducted an enquiry behind the back of the petitioner and submitted a report to the second respondent. The second respondent issued a show cause notice on 02.06.2000 asking the petitioner to explain the reasons as to why his caste certificate of ST (Koya) should not be cancelled. In pursuance of the said show cause notice, the petitioner submitted his detailed explanation on 03.09.2000. After receipt of the explanation, the

second respondent issued a notice on 13.09.2000 directing the petitioner to appear before the District Level Scrutiny Committee for verification of the caste certificate. The petitioner attended before the Committee with all the relevant records. After enquiry, a final show cause notice was issued to the petitioner by the second respondent on 25.02.2002. The petitioner submitted his explanation on 30.04.2002 and 24.06.2002 and requested to drop the proceedings. Ultimately, the second respondent passed orders on 02.10.2002 canceling the ST (Koya) caste certificate of the petitioner and further directed to initiate criminal proceedings against the petitioner. Challenging the same, the petitioner preferred an appeal before the first respondent, and on number of occasions the appellate authority was not available. The petitioner was surprised to receive an order in appeal dated 27.04.2004 on 02.05.2004 rejecting the appeal preferred by him vide orders in G.O.Ms.No.37, Social Welfare (CV.2) Department, dated 27.04.2004.

A perusal of the order in G.O.Ms.No.37, Social Welfare (CV.2) Department, dated 27.04.2004, admits the fact that the petitioner is a child of an inter-caste marriage i.e., father belonging to ST (Koya) and mother belonging to OC community. But, it was stated that the petitioner neither lived in midst of ST (Koya) community nor continued any relation with the ST community. The appeal was ultimately dismissed on the ground that the petitioner sought unnecessary adjournments and he cannot automatically claim the social status of the parent belonging to ST community, unless he was accepted by the Scheduled Tribes as a member of their community and has been brought up in that surroundings.

Learned Counsel for the petitioner brought to the notice of this Court a Division Bench decision of this Court in **Government of A.P v. Pagadala Khali Kanthi**^[1], wherein it was held that if the father of the person has married outside his caste, the offspring is entitled to claim the status of the father. For coming to the said conclusion, the Division

Bench relied on the decision of the Supreme Court in **Anjan Kumar v. Union of India**^[2] relating to a converse case. In the mentioned case the record reveals that no opportunity was given to the petitioner to present his case before the appellate authority. The appeal was disposed of on the basis of the remarks furnished by the District Collector and the record available before the appellate authority. There is no material placed before this Court to show that a final opportunity was given to the petitioner to submit his case before the appellate authority. However, it is admitted case that the father of the petitioner belongs to ST (Koya) community and his mother belongs to OC (Reddy) community. In the case of such inter-caste marriage, it is well established that the children get the social status of the father. Admittedly, the father of the petitioner worked at Rajahmundry Municipality under ST category and in all the school records the social status of the petitioner was shown as ST community only.

In the circumstances, instead of remanding the matter to the appellate authority, I hold that the petitioner belongs to ST (Koya) community based on the social status of his father. In view of the admitted case of the petitioner's father belonging to ST community, the other issue whether the petitioner was brought up in the surroundings of ST community is not being dealt with.

The Writ Petition is, accordingly, allowed by setting aside the order of the first respondent in G.O.Ms.No.37, Social Welfare (CV.2) Department, dated 27.04.2004, confirming the order of the second respondent dated 02.10.2002. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

27.02.2015
vs

[\[1\]](#) 2010 (3) ALT 663 (DB)

[\[2\]](#) (2006) 3 SCC 257