

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH

* * *

WRIT PETITION No. 22239 of 2006

BETWEEN

J.Ram Mohan Rao

... PETITIONER

AND

The Government of A.P., Rep. by its Principal Secretary

...RESPONDENTS

Date of Order pronounced: 28.10.2015

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether his Lordship wish to see the fair copy of the Judgment? | Yes/No |

ORDER:-

This writ petition was filed assailing the proceedings dated 14.09.2005 of the Collector and District Magistrate, Visakhapatnam, whereby the petitioner's Kondakapu Scheduled Tribe Caste Certificate was cancelled, and G.O.Ms.No.79, Social Welfare (CV.II) Department, dated 23.10.2006, whereby the Government confirmed the said cancellation in appeal.

2. By order dated 27.10.2006, this court granted interim suspension of the proceedings and the G.O. under challenge.

3. It is an admitted fact that when notices dated 15.06.2004 and 03.09.2004 were issued to the petitioner in the context of the enquiry sought to be undertaken by the District Collector into his caste status, he filed W.P.No.18010 of 2004 before this court assailing the validity thereof. By order dated 07.03.2005, this court allowed the writ petition holding that the impugned notices were not issued by the competent authority. The notices dated 15.06.2004 and 03.09.2004 were accordingly set aside, but liberty was given to the competent authority under the provisions of the Andhra Pradesh Scheduled Caste, Scheduled Tribe and Backward Classes Regulation of Issue of Community Certificates Act, 1993, to issue a prior show cause notice with all the details calling upon the petitioner to explain the allegations made against him and upon the receipt of the explanation, if any, the competent authority was given the liberty to conduct an enquiry in accordance with law on merits after giving due and sufficient opportunity to the petitioner. This entire exercise was directed to be completed with a time frame. This order has admittedly attained finality.

3. It is pursuant to the liberty granted in the aforestated order that the Collector and District Magistrate, Visakhapatnam, claims to have undertaken an enquiry afresh and issued the impugned proceedings dated 14.09.2005. However, perusal of the said proceedings reflects that reference was made therein to the very same notice dated 03.09.2004 issued in Rc.No.294/99/C5. The body of the order also reflects that except this notice, no fresh notice was issued to the petitioner in terms of the order passed by this court in W.P.No.18010 of 2004. It is relevant to note that the above writ petition was allowed on 07.03.2005, but the District Collector again relied upon the enquiry allegedly held by the District Level Scrutiny Committee on 17.09.2004 which had no legal import as the notice dated 03.09.2004, which was the basis thereof, had already been set aside by this court. The only material before the District Collector was the report dated 25.09.2004, said to have been submitted by the District Level Scrutiny Committee basing on the

notice dated 03.09.2004, which was set at naught. As the impugned proceedings dated 14.09.2004 of the District Collector, Visakhapatnam manifest these facts, learned Assistant Government Pleader was asked to verify as to whether any notice had been issued to the petitioner subsequent to the order dated 07.03.2005 passed by this court in W.P.No.18010 of 2004. Learned Assistant Government Pleader produced the record and fairly conceded that no notice was issued to the petitioner by the competent authority as required by this court in the final order passed in W.P.No.18010 of 2004.

4. In that view of the matter, the impugned proceedings dated 14.09.2005 of the Collector and District Magistrate, Visakhapatnam are vitiated by complete lack of application of mind apart from being without basis, as the notice which formed the foundation for the said proceedings had already been set aside by this court. This futile exercise of the Collector and District Magistrate, Visakhapatnam was given a stamp of approval by the appellate authority, the Government of Andhra Pradesh, vide G.O.Ms.No.79 dated 23.10.2006 without even appreciating this fact. Neither the impugned proceedings dated 14.09.2005 nor G.O.Ms.No.79 dated 23.10.2006 withstand the scrutiny of law in the light of the aforestated facts and are therefore set aside.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

October 28, 2015
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