

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.30842 of 2015

ORDER:

The relief sought for in this Writ Petition is to declare the order dated 09-12-2014 issued by the third respondent, as illegal and arbitrary. A consequential direction is sought to direct the third respondent to issue Backward Class Community Certificate to the petitioner as he belongs to 'Gandla' community.

The petitioner was, admittedly, issued a Community, Nativity and Date of Birth certificate by the Tahsildar, Mahadevpur Mandal, Karimnagar District in 2010, wherein he was shown as belonging to B.C-B category. The petitioner, thereafter, submitted an application for a digital copy of the said certificate on 22-11-2014. The said application was rejected by proceedings dated 09-12-2014.

Learned Government Pleader for Social Welfare, on instructions, would submit that a representation was received by 'Akhila Gandla Telakula Sangham' contending that persons belonging to 'Reddy Gandla' caste are not Backward Classes; and they should not be treated as falling under the B.C-B category.

Section 5 of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for brevity, 'the Act') relates to cancellation of a false community certificate. Under sub-Section (1) thereof, where, after the commencement of the Act, a person not belonging to the Backward Classes has obtained a false community certificate to

the effect that either himself or his children belong to such castes, tribes or classes, the District Collector may either suo motu, or on a written complaint by any person, call for the record and enquire into the correctness of such certificate; and, if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making a representation.

As Section 5 of the Act prescribes a procedure for cancellation it is only if, and after, the caste certificate issued in favour of the petitioner is cancelled can she be denied the benefits available to the backward classes. As long as the said certificate continues to remain in force, and no action has been taken under Section 5 of the Act, the petitioner is entitled to rely on the caste certificate issued in his favour in 2010 and claim all benefits to which a B.C-B category candidate is entitled to.

Since the Community, Nativity and Date of Birth certificate issued by the Tahsildar in 2010 is, admittedly, still in force, the respondents shall, within two days from the date of receipt of a copy of this order, furnish the petitioner a digital copy of the said certificate. It is made clear that this order shall not preclude the respondents from initiating action under Section 5 of the Act for cancellation of the caste certificate in favour of the petitioner, if they are of the view that the said caste certificate is false.

The Writ Petition stands disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

September 22, 2015

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