

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

TUESDAY THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 1666 OF 2007

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Between:

Prem Kumar Bisoi ... Petitioner

Vs.

The Government of Andhra Pradesh

Rep. by its Prl. Secretary,

Social Welfare [CV2] Dept.

Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioner: Sri B.Sudhakar Reddy Neeraja Reddy

Counsel for the Respondents: GP for Social Welfare

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SETHA SAI

WRIT PETITION NO. 1666 OF 2007

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ORDER :

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This writ petition is filed under Article 226 of the Constitution of India for the following relief :

“To call for the records pertaining to Memo.No.12578/CV.2/2006-1, dated 13/11/2007 on the file of first respondent and quash the same as illegal and violative of principles of natural justice and consequently to set aside the orders in RC.No.2251/2004G, dated 16/2/2005 on the file of third respondent and further to direct the respondents to issue community caste certificate pertaining to ‘Bentho Oriya’ scheduled tribe community to the petitioner in view of the caste certificate issued to the petitioner’s family members and other relative evidence for pursuing his studies in the interest of justice and to pass such other suitable orders as this court may deems

fit and proper in the circumstances of the case.”

2. Heard Sri B. Sudhakar Reddy Neeraja Reddy, learned counsel for the petitioner and the learned Government Pleader for Social Welfare for Respondents.

3. According to the petitioner, he is a native of Pradhanaputtuga village, Kanchili Mandal, Srikakulam district and belongs to “Bentho Oriya” community which stands at serial No.17 in the list of Scheduled Tribes. The District Collector, second respondent herein pressed into service the provisions of the A.P. [SC, ST & BCs] Regulation of Issue of Community Certificates Act, 1993 [for short ‘The Act’] and passed an order vide Proceedings Rc.No.1597/2002/01, dated 28/7/2006, in exercise of the powers conferred under section 5 (1) of the said Act, setting aside the order passed by the Revenue Divisional Officer, Tekkali vide RC.No.2251/2004 G dated 16/2/2005. Aggrieved by the said order passed by the District Collector, the petitioner herein preferred an appeal under section 7 [2] of the Act on 26/10/2006. The State Government by virtue of Memo.No.12578/CV.2/2006-1, dated 13/11/2006 dismissed the said appeal filed by the petitioner. Calling in question the validity and legal sustainability of the order passed by the State Government, the present writ petition came to be filed.

4. A counter-affidavit is filed by Respondent No.4 Revenue Divisional Officer, Tekkali, on behalf of all the respondents, denying the averments made in the writ affidavit and with direction of justifying the impugned action.

5. It is contended by learned counsel for the petitioner herein that the order passed by the first respondent-State Government is illegal, arbitrary and violative of Article 14 of the Constitution of India besides being opposed to the provisions of the Act and Rules framed thereunder. It is also the submission of learned counsel for the petitioner that the first respondent grossly erred in not considering the grounds of appeal filed by the petitioner and had the same been considered from proper perspective the order impugned would have not emanated.

6. On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor there is any procedural infirmity in the impugned order, as such, the present writ petition is not maintainable.

7. In the above backdrop, now the issue emerges for consideration of this court in the present writ petition is “whether the impugned memo issued by the first respondent herein is sustainable and tenable in the eye of law ?”

8. The information available before this court manifestly discloses that as against the orders passed by the District Collector, second respondent herein, the petitioner preferred statutory appeal before the State Government-first respondent under the provisions of Section 7 of the Act.

9. A perusal of the grounds of appeal clearly, categorically and in unequivocal terms reveals that the petitioner herein urged a number of grounds against the impugned action. A reading of the impugned memo dated 30/11/2006 makes it abundantly clear that the first respondent herein did not consider any one of the

grounds urged by the petitioner herein in the grounds of appeal. It is a settled and well established proposition of law that the orders of quasi judicial authorities should necessarily be supported by valid reasons. In the instant case, the said exercise is conspicuously absent and the said non-consideration is writ large on the face of the impugned order and the said infirmity is sufficient for this court to set aside the impugned memo. In these circumstances, this court has absolutely no scintilla of hesitation to hold that the impugned memo, by any stretch of imagination, cannot be sustained in the eye of law and is liable to be set aside. This Court is of the opinion that the matter requires consideration afresh by the first respondent.

10. In view of the above reasons, the writ petition is allowed, setting aside the memo dated 13/11/2007 issued by the first respondent and the matter is remanded to the first respondent for fresh consideration in accordance with law after giving notice and opportunity of being heard to the petitioner herein. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

11. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

01/12/2015

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HONOURABLE SRI JUSTICE A.V. SETHA SAI

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WRIT PETITION NO. 1666 OF 2007

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Court Master: I s L