

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

CONTEMPT CASE No.523 of 2015

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ORDER: (per Hon'ble Sri Justice Nooty Ramamohana Rao)

This contempt case is instituted by the original writ petitioner.

The relevant facts for purpose of disposing of this contempt case shortly stated as under:

Writ Petition No.7592 of 1999 was instituted by the petitioner before this Court challenging the correctness of the orders passed by the Central Administrative Tribunal, Hyderabad Bench at Hyderabad in O.A.No.1104 of 1997, which was dismissed by the said Tribunal. That Writ Petition is allowed by a Division Bench of this Court on 22.10.2008.

In paragraph No.15, it has been noticed by this Court that the petitioner has produced certain documents in support of his claim. But however, no one has carried out the necessary enquiry in terms of and in accordance with the provisions of the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993) (henceforth referred to for brevity as "Act"). The Court in paragraph No.16 has recorded that "unless the case of the petitioner is examined with reference to the documents submitted by him and opportunity afforded to him in the matter, branding him as a person belonging to non-tribal community is without basis."

This declaration contained in paragraph No.16 gave rise to any amount of doubt and speculation on both sides. It is no doubt true that the declaration clearly

communicated that the writ petitioner should not have been condemned unheard and without providing him a fair and reasonable opportunity in the matter. But the question is which is the authority that should provide him such an opportunity? The documents which have been referred to by the Division Bench in paragraph No.15 rendered in W.P.No.7592 of 1999 relate to some academic or technical educational certificates etc. The question of their genuineness being doubted at this stage, perhaps, may not have arisen. But however, for any reason the Railway administration has entertained any doubt with regard to genuineness of any claim, undoubtedly the Railway administration is entitled to carryout any such enquiry.

But however, post the enactment of Act 16 of 1993, the right to conduct necessary investigation and enquiry into genuineness of any claims of social status as Scheduled Caste or Scheduled Tribe is now a field occupied by the Act. Therefore, to the extent of genuineness of the social status claim made by the petitioner herein has got to be referred to the District Level Scrutiny Committee, constituted by the District Collector of the District, wherefrom the social status certificate has been obtained. Sri D.V.Nagarjuna Babu, learned counsel for the petitioner, would submit that the same has not been carried out so far. Till such time, the District Level Scrutiny Committee carries out the investigation and enquiry in accordance with the principles contained in Act 16 of 1993 and the Rules made thereunder in 1997, there is a valid presumption that the certificate produced, though issued prior to coming into force of the Act, is a valid one. Therefore, the fiction in that regard will subsist till such time the genuineness of the claim is one way or the other pronounced by the District Level Scrutiny Committee.

In so far as the grievance with regard to the payment of arrears of salary for the period, the petitioner herein has remained outside service pursuant to the order of termination, which has been since set aside, it has got to be strictly regulated in accordance with the Fundamental Rules on the subject. Therefore, preserving liberty to the petitioner to make an appropriate claim with regard to payment of arrears and to consider the same in accordance with law, we have not found the conduct of the respondents as completely blameworthy for us to initiate proceedings under the Contempt of Court Act. Hence, preserving liberty to the respective parties as stated supra, this contempt case is disposed of. No order as to costs.

The miscellaneous applications, if any shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

28.09.2015
Ksp