

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.3225 of 2015

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Between:

Malli Sarada

PETITIONER

AND

1. State of Andhra Pradesh, rep. by its Principal Secretary, Tribal Welfare Department, Secretariat Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed, questioning the proceedings in Rc.C5(M)/1545/2013, dated 28.12.2013 issued by the 2nd respondent and consequential proceedings in Rc.C5(M)/375/2012, dated 19.09.2014 in so far as effecting the petitioner, as illegal and arbitrary.

The case of the petitioner is that she belongs to Scheduled Tribe (Yanadi) Community. The competent authority issued caste certificates from time to time. The 2nd respondent issued proceedings in exercise of the powers conferred under Section 5 of A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act') r/w Rule 9(7) of the Rules made thereunder, cancelled the community certificate issued in favour of the petitioner. Assailing the said order the petitioner filed the present writ petition on the ground that after the District Level Scrutiny Committee (DLSC) enquiry, she was not served with a copy of the enquiry report stating that she does not belong to Scheduled Tribe (Yanadi) Community and no notice was issued to her as required under Section 5(1) of the Act r/w Rule 9(7) of the Rules by the 2nd respondent. The petitioner came to know about the cancellation order dated 28.12.2013 when she received proceedings of the 2nd respondent in Rc.C5(M)/375/2012, dated 19.09.2014. The learned counsel relied on the judgment of this Court in K. Suraj Singh v. Collector and District Magistrate, Kadapa^[1].

Heard learned counsel for the petitioner and learned Government Pleader for Social Welfare (A.P.) for respondents.

On 16.02.2015 this Court while issuing notice before admission directed the learned Government Pleader for Tribal Welfare to get instructions as to whether any notice was issued to the petitioner prior

to passing of the impugned proceedings as required under Section 5 of the Act.

Today, the learned Government Pleader has placed on record the return instructions dated 23.02.2015 received from the office of the 2nd respondent. In the said instructions the decision taken by the 2nd respondent was justified. However, the specific allegation of the petitioner that no notice was issued by the 2nd respondent as required under Section 5(1) of the Act r/w Rule 9(7) of the Rules has not been controverted. The impugned order also does not reflect that any notice has been issued to the petitioner before passing the impugned order.

This Court in the judgment referred to by the learned counsel for the petitioner had categorically held that in a case of violation of following due procedure prescribed under the Act and the Rules, cancellation of caste certificate cannot be sustainable.

Following the ratio laid down by the learned Judge in the above referred judgment, I deem it appropriate to allow the writ petition quashing the order dated 28.12.2013 passed by the 2nd respondent. However, considering the fact that time has been elapsed setting aside of the order dated 28.12.2013 will not serve any useful purpose to the petitioner to enjoy the benefits of the reservation meant for the deprived classes. Considering the fact that the order dated 28.12.2013 is being quashed only on technical grounds the 2nd respondent shall issue notice to the petitioner and give an opportunity of being heard to the petitioner and thereafter pass appropriate orders in accordance with law on or before 30.04.2015. The petitioner shall be present on the date notified by the 2nd respondent and shall not seek any adjournments.

Subject to the above direction, the writ petition is allowed. However, the main grievance of the petitioner being non-furnishing of DLSC report, a copy of the said report shall be furnished to the petitioner forthwith. No costs. As a sequel, miscellaneous petitions, if

any, shall stand closed.

CHALLA KODANDA RAM, J.

18th March, 2015
Js.

[\[1\]](#) 2011 (6) ALD 193