

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

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

PUBLIC INTEREST LITIGATION NO.55 OF 2015

DATED:09.03.2015

Between:

The Schedule Castes Reservation Parirakshana Samithi,
Regd. No.1181/2010, Office Door No.5-9-199,
Rajiv Gandhi nagar
Near Prashanti Nagar, Kukatpally
Hyderabad
Represented by its Spokes Person, Sri Kamaram Venkatesh

...Petitioner.

And

The State of Telangana, represented by its Chief Secretary
Secretariat, Hyderabad and others.

... Respondents.

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR**

PUBLIC INTEREST LITIGATION NO.55 of 2015

ORDER: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This writ petition has been filed challenging the Government Order, being G.O. Ms. No.25, Scheduled Castes Development (SCP) Department, dated 20.12.2014, in extending certain benefits to Backward Castes (B.C.)-C group from the funds/budget of Schedules Castes Development Department to get relief of declaration that it is illegal, improper, unethical and unconstitutional. A direction is sought upon respondent Nos.1 to 4 to the effect that if the Government intends to extend the benefits for B.C.(C) group (Converted Christians), budget should be provided by the BC Welfare or Minority Welfare Department by a separate Government Order from the B.C. Welfare Department, but not Scheduled Castes Development Department.

2. In the body of the affidavit, in support of the aforesaid prayer, allegations of illegality and unconstitutionality have been made. That apart allegations have also been made in the body of the affidavit in relation to another Government Order, being G.O. Ms. No.12 dt.24.9.2014 which provides for financial assistance to Scheduled Castes and Scheduled Tribes unmarried girls at the time of marriage. However, no relief has been claimed in connection with the second G.O. We therefore do not wish to decide anything on that issue. We examine the first issue.

3. Learned counsel for the petitioner says that the impugned

Government Order is unconstitutional as only Hindu Scheduled Castes are entitled to reservation benefit as well as other benefits from the Government funds in terms of Government Orders issued as above. He submits that once Hindu Scheduled Caste individual is converted into Christian, he or she ceases to have such benefit.

4. We are unable to accept this contention. According to us, Constitution nowhere provides that Scheduled Caste community has to be classified based on religion. The object of making provision for reservation in the Constitution for Scheduled Caste is to improve their social and educational plight treating them to be backward without any nexus to the religion. There is no presumption under law that on conversion of religion, the plight of a member of a Scheduled Caste, be it economic or social, is improved automatically, unless of course factually it is found that economic condition of this member convert has been improved in order to term them within the group of creamy layer as enunciated by the Hon'ble Supreme Court in a number of decisions. We therefore do not find any illegality or infirmity in the decision of the State Government, which is again a policy one, extending the benefit to the convert Scheduled Castes. But, the Government must also be careful to examine whether on conversion the convert Scheduled Caste has been placed in economically better position than he/she was before conversion. In other words, whether he/she can be treated within creamy layer part and if it is so, the benefit should not be extended.

5. It is further submitted by the learned counsel for the petitioner, drawing our attention to the impugned G.O., that in order to meet the expenditure fund earmarked for Hindu Scheduled Castes is sought to be utilized and this is not permissible. We think that it is for the Government and for that matter the Audit Department to check up this issue and not for us to look into effect of the same.

6. We therefore close the writ petition with the aforesaid order.

Pending miscellaneous petitions, if any, shall also stand

closed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

09.03.2015

BNR / GJ