IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE TWENTY SECOND DAY OF AUGUST TWO THOUSAND AND SIXTEEN

Present
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.24864 and 24867 of 2006

Between:

W.P.No.24864 of 2006

Balakrishna Choudhary, s/o. Govinda Chandra Choudhary, aged:about 50 years, R/o. Kancharapalem, Visakhapatnam.

..Petitioner.

And

The Government of Andhra Pradesh, Social Welfare(CV-2) Department, rep. by its Principal Secretary, Secretariat, Hyderabad and others.

..Respondents.

Between:
W.P.No.24867 of 2006

Pratap Chandra Palo, s/o.Seetharam Palo, Aged:49 years, R/o.H.No.14, Gokul Dham Colon, Phase-II, Purushothapuram, Pendurthi Mandal, Visakhapatnam District.

..Petitioner.

And

The Government of Andhra Pradesh, Social Welfare(CV-2) Department, rep. by its Principal Secretary, Secretariat, Hyderabad and others.

..Respondents.

The Court made the following:

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

W.P.Nos.24864 and 24867 of 2006

COMMON ORDER

Petitioners are employees of M/s. Hindustan Shipyard Limited, Visakhapatnam. Petitioner in W.P.No.24864 of 2006 retired from service on attaining the age of superannuation on 31.07.2010 and the petitioner in W.P.No.24867 of 2006 has still 8 more months' service left before he attains the age of superannuation. Petitioners secured employment in the Hindustan Shipyard against the vacancies earmarked for Schedule Tribe category candidates.

2. It appears, complaints were made against the petitioners for securing employment claiming themselves as Scheduled Tribe candidates. Disputing the Scheduled Tribe status of petitioners and obtaining of Scheduled Tribe certificates, the District Collector initiated proceedings to cancel the caste certificates already issued under Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issuance of Community Certificates Act, 1993 (Act No.16 of 1993). It appears, the Mandal Revenue Officer conducted enquiry and submitted his report, which was the basis for the District Collector to issue notice calling upon the petitioners to submit explanation. Thereafter, the District Collector had constituted a Committee of Officers to conduct discreet enquiry and to submit report. The enquiry committee issued notice dated 14.02.2001 calling upon the petitioners to appear before it and to place on record the relevant material in support of the claim that they belong to Scheduled Tribe category. Petitioners appeared and submitted documents in support of

their claim. It appears, the members of the committee appointed by the District Collector have individually enquired into the social status of petitioners and submitted their reports. The reports of the individual members have been consolidated and a report was submitted to the District Collector on 23.10.2001. The committee opined that the petitioners do not belong to Scheduled Tribe category, but they belong to 'Oriya Brahmin' community. Based on this report, the Collector directed the petitioners to appear before him for taking further steps. Petitioners appeared before the District Collector. During enquiry before the Collector, the report submitted by the Scrutiny Committee was shown to the petitioner in W.P.No.24864 of 2006. The written statement given by the petitioner in W.P.No.24864 of 2006 would show that he has seen the report. Petitioner further stated that he has no other evidence in his possession in addition to the material already furnished to the Scrutiny Committee. The District Collector, by his orders, dated 06.12.2001 and 23.12.2001, cancelled the Scheduled Tribe certificates issued in favour of the petitioners respectively. In support of his decision, District Collector placed reliance on the reports of the Mandal Revenue Officer dated 28.09.1998, Revenue Divisional Officer dated 14.12.1999 and the Scrutiny Committee.

3. Aggrieved by the decision of the District Collector, petitioners filed appeal before the Government. In the said appeal, petitioners have raised contention that the copies of the reports of Mandal Revenue Officer, Revenue Divisional Officer and Scrutiny Committee were not furnished and that the petitioners were kept in dark by the authorities, who submitted the reports to the District Collector. The Government

rejected the appeal filed by the petitioners. However, the order of the Government is silent on the issue of non-furnishing of relevant record, which was the basis for passing the orders by the District Collector.

4. The first and foremost contention raised by the learned counsel Mr. V. Srinivas, for the petitioners, is that the order of the District Collector is vitiated on the sole ground that the procedure followed was in clear violation of principles of natural justice and foul play without supplying the relevant material which was the basis for the District Collector's decision to cancel the caste certificates no adverse decision could have been taken by the District Collector. He further submits that petitioners secured employment by declaring themselves as Scheduled Tribe candidates and based on the said certificates issued to them by the competent authority. Cancellation of the Scheduled Caste Certificate results in forfeiture of the employment benefits already secured and adverse consequence to them and their family members. The result of the order would have severe evil consequence and whenever said decision is made, more particularly, by quasi judicial authority, the relevant documents relied on, in support of the decision, have to be supplied and due opportunity should be afforded before taking decision. Any order made without following due procedure stands vitiated on the sole ground. In support of his contention, learned counsel placed reliance on the decision of the Supreme Court in **Alagaapuram R. Mohanraj V. Tamil Nadu Legislative Assembly**[1].

5. Having regard to the specific assertion of the counsel for the petitioners, learned Government pleader was directed to ascertain

[1] (2016) 6 SCC 82

whether all the relevant records were supplied to the petitioners before taking the adverse decision and if necessary, to produce the relevant records. Learned Government Pleader produced the original record of the action taken against petitioners. He has also circulated the xerox copies of the relevant pages of original record. Learned Government Pleader specifically referred to the statement made by petitioner in W.P.No.24864 of 2006 on 19.11.2001, which would disclose that the Scrutiny Committee report was shown to him and having seen the report he has stated that he has no other information with him to give explanation to the said report and contends that all the relevant information was shown to the petitioner by the District Collector before passing adverse orders. Learned Government Pleader would therefore submit that due opportunity was afforded to the petitioners and having found that the petitioners do not belong to HOLVA community, but belong to HOLUVA community, which is Oriya Brahmin, forward caste community, the District Collector passed orders validly as affirmed by the Government.

6. On merits, learned Government Pleader sought to contend that the voluminous record secured during the course of enquiries conducted at various places would disclose that the petitioners do not belong to HOLVA community, but belong to HOLUVA community.

7. Having regard to the specific objection raised by the learned counsel Mr. V. Srinivas that due opportunity was not afforded before passing the orders by the Collector cancelling the social status certificates issued in favour of petitioners and the issue was not

considered with reference to the said objection, the claims need not be considered on merits.

8. On the objection raised by the learned counsel for the petitioners, learned Government pleader was specifically asked to state whether there is any proof of record to show that all the relevant reports starting from Mandal Revenue Officer to the Scrutiny Committee were furnished to the petitioners and the learned Government Pleader, on going through the record, fairly submitted that there is no material to show that these reports were furnished to the petitioners. However, learned Government Pleader would submit that the representation of the petitioner in W.P.No.24864 of 2006 dated 19.11.2001 shows that the report was shown to him.

9. A detailed enquiry was conducted by Mandal Revenue Officer. Even the members of the Scrutiny Committee seemed to have conducted enquiry and submitted their individual reports, which were only shown to the petitioner in W.P.No.24864 of 2006. With reference to the petitioner in W.P.No.24867 of 2006, even this information is not available in the record. Thus, it cannot be said that petitioners were afforded due opportunity before taking decision by the District Collector.

10. It is not in dispute that the competent authority issued social status certificates to the petitioners and based on said certificates, petitioners secured employment. Cancellation of the caste certificates issued to them would automatically result in removal from service and all other adverse consequences would also follow. The petitioners as well as their family members also would suffer adversely with reference to all

claims. Thus, consequences are very severe and adverse to petitioners. Whenever such an order is passed, it is elementary that all the required material on which the competent authority places reliance in support of the decision must be supplied. Obviously, this elementary course was not followed.

11. The decision relied by Mr V. Srinivas, concerns the members of Legislative Assembly of State of Tamilnadu. The Privileges Committee of the Legislative held some MLAs guilty of violating the code of conduct based on the video footage. The said footage recording was not furnished to the members of the Legislative Assembly before holding them as guilty. Finding fault with such action of the competent authority, the Supreme Court observed as under:

> "However, it is not the petitioners' burden to request for a copy of the video recording. It is the legal obligation of the Privileges Committee to ensure that a copy of the video recording is supplied to the petitioners in order to satisfy the requirements of the principles of natural justice. The failure to supply a copy of the video recording or affording an opportunity to the petitioners to view the video recording relied upon by the Committee in our view clearly resulted in the violation of the principles of natural justice i.e., a denial of a reasonable opportunity to meet the case".

12. In view of the aforesaid findings and following the principle laid down by the Supreme Court in the above decision, the orders impugned are liable to be set aside and are accordingly set aside and the matter requires reconsideration by the District Collector.

13. The Writ Petitions are allowed and the orders impugned are set aside and the matter is remitted to the District Collector for consideration from the stage after receiving report of the Scrutiny Committee. The

District Collector shall furnish the reports of Mandal Revenue Officer, Revenue Divisional Officer and Scrutiny Committee along with enclosures forming part of the said reports, if any, to the petitioners and petitioners be given further opportunity to submit their explanation in writing. They shall also be given opportunity of hearing by the District Collector. After considering their written submissions as well as statements made during personal hearing, the District Collector shall pass further orders as warranted by law. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Till the orders are passed by the District Collector, petitioners are not entitled to claim any service benefits flowing out of their employment.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

P.NAVEEN RAO, J

22nd August, 2016
sj