

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

WRIT PETITION No.25931 of 2007

Between:

Ponuru Diwakar Subramanyam.

....Petitioner

and

The Collector & Dist. Magistrate,
Kurnool District,
And others.

....Respondents

JUDGMENT PRONOUNCED ON : 28.03.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers : YES
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : NO
Marked to Law Reporters/Journals?
3. Whether His Lordship wishes to : NO
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.25931 of 2007

ORDER:

The petitioner claims to be belonging to "Kammara" caste, which is notified as a Scheduled Tribe. He further states that his forefathers originally belonged to the Tamil Nadu State and they migrated to Panyam Village and settled there. They are traditionally Blacksmiths. His father continued the occupation of Blacksmithy throughout his life. The petitioner married a "Kammara" girl. Basing on his caste, the then Tahsildar issued caste certificates on 14.07.1977, 18.11.1981, 10.09.1982 and 01.10.1982. He was treated as a person belonging to "Kammara" caste through out his academic career and the same was

recorded in his educational certificates. Basing upon his social status as Scheduled Tribe, he was selected and appointed as a Messenger in the State Bank of India on temporary basis during the period 1980 to 1985. Thereafter, he was called for interview in the year 1987 and he was appointed as Messenger on permanent basis by order dated 17.05.1992. He was allotted to Narayankhed ADB Branch of State Bank of India, Mahabubnagar District.

It appears that the Assistant General Manager of the Bank addressed a letter on 04.05.1999 requesting the authorities to enquire into the genuineness of the social status of the petitioner and the certificates issued by the then Tahsildars. The first respondent instructed the Revenue Divisional Officer to conduct an enquiry and submit a report. The Revenue Divisional Officer instead of conducting the enquiry by himself, directed the Mandal Revenue Officer, Panyam, to conduct the enquiry and submit a report. The Mandal Revenue Officer, without recording the statement of the petitioner, submitted a report stating that there are no "Kammara" caste people in Panyam Village and that they belong to "Viswa Brahmin" caste, which falls under serial No.21 of BC (B) category. The Revenue Divisional Officer, through his letter dated 28.11.2001, requested the first respondent to cancel the Scheduled Tribe certificate issued to the petitioner. Though no report of the Mandal Revenue Officer or the Revenue Divisional Officer was communicated to the petitioner, he was issued a notice in Form VI by the District Level Scrutiny Committee directing him to attend the enquiry on 22.05.2004. Accordingly, he attended the enquiry and submitted relevant documents to establish his social status as belonging to "Kammara" community. His wife and father-in-law were called before the Committee and they submitted the documents showing that they belong to "Kammara" caste. In spite of the documentary and oral evidence, the first respondent issued proceedings in D.Dis.No.C6.1222/M/99, dated 20.01.2005, canceling the caste certificates issued in favour of the petitioner by the then Tahsildar with immediate effect. The petitioner

challenged the said order of the first respondent before the fourth respondent under Sections 7 and 11 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, the Act). The fourth respondent, by order dated 14.03.2005, rejected the stay petition pending appeal. When the appeal was not disposed of, the petitioner filed W.P.No.4698 of 2005 and the same was disposed of on 10.03.2005 directing the fourth respondent to dispose of the appeal within two months. When the fourth respondent issued G.O.Ms.No.83, Social Welfare (CV.2) Department, dated 22.09.2007, dismissing his appeal, the petitioner filed the present Writ Petition.

A counter affidavit is filed by the first respondent stating that the caste and community of the concerned person would be recorded in the school records as per the statements made at the time of admission, but not on the basis of any enquiry. The caste of wife and husband need not be the same and the individual has to establish his claim through his forefathers and blood relatives, but not through his in-laws. The then Tahsildar issued the "Kammara" Scheduled Tribe caste certificate to the petitioner in a routine manner and not on proper enquiry. As per the guidelines issued by the Government in G.O.Ms.No.245, Social Welfare (F) Department, dated 30.06.1977, the petitioner did not belong to "Kammara" community. After coming into force of the provisions of Act No.16 of 1993, the authority is empowered to enquire into the correctness of the certificate. Accordingly, on the request of the Assistant General Manager dated 04.05.1999, enquiry was conducted as per the provisions of the said Act.

Learned Counsel for the petitioner submitted that no notice was issued by the first respondent apart from the notice in Form VI to attend the enquiry on 22.05.2004, and in the absence of a separate show cause notice, Section 5 of the Act is violated. Hence, the impugned order passed by the first respondent is illegal. He further submitted that the

documentary evidence clinchingly showed that the petitioner belongs to “Kammara” caste and in spite of the same, respondent Nos.1 and 4 erred in ignoring the said evidence. He further stated that respondent Nos.1 and 4 passed the orders without giving reasons. It is finally submitted that, though the petitioner complied with the guidelines prescribed in the Government Memo No.984/CV.2/98-3, dated 23.07.1999, and the caste certificate was issued thirty years back, it would be unjust to cancel the certificates. He relied on **Valsamma Paul v. Cochin University**^[1], **D.Sudershan v. Government of Andhra Pradesh**^[2] and **Ayaaubkhan Noorkhan Pathan v. State of Maharashtra**^[3].

Learned Government Pleader, on the other hand, submitted that the enquiry was conducted by the District Level Scrutiny Committee after affording an opportunity to the petitioner and a finding is recorded that the petitioner does not belong to “Kammara” caste. Hence, the orders of the respondents do not need any interference.

There is no dispute that “Kammara” community is included as one of the Scheduled Tribes in the State of Andhra Pradesh. The Petitioner was appointed as Messenger in the State Bank of India on the basis of the certificates issued by the Tahsildar. On the request of the Assistant General Manager, an enquiry was conducted by the District Level Scrutiny Committee and based on its report, the first respondent passed an order on 20.01.2005 holding that the petitioner belongs to “Kammari (Viswa Brahmin)” caste, which comes under Backward Castes. Accordingly, the caste certificates issued by the Tahsildar, Nandyal, on 14.07.1977, 18.11.1981, 10.09.1982 and 01.10.1982 were cancelled.

The enquiry was conducted by the District Level Scrutiny Committee and a notice was issued to the petitioner to attend the enquiry on 22.05.2004. The petitioner, accordingly, attended the enquiry and

filed two documents i.e, 10th class transfer certificate, and the caste certificates issued by the then Tahsildar, Nandyal, on four occasions. The statements of the petitioner and his father-in-law were recorded. His father-in-law filed the election identification card and the 10th class transfer certificate of his daughter. The Government in Memo No.984/CV2/98-3, dated 23.07.1999, issued guidelines for issue of “Kammara” (ST) caste certificate. The District Level Scrutiny Committee perused the report of the Revenue Divisional Officer and recording the submissions of the Petitioner came to the conclusion that the petitioner belongs to “Kammari (Viswa Brahmin)” caste, which comes under Backward Classes and the same was accepted by the first respondent. The first respondent issued the notification on 20.01.2005 canceling the four certificates issued by the Tahsildar. When an appeal was preferred before the fourth respondent raising several grounds, the fourth respondent considered the Government Memo dated 23.07.1999, and rejected the appeal.

Thus, a concurrent finding was recorded by the District Level Scrutiny Committee as well as by the appellate authority – the fourth respondent, with regard to the social status of the petitioner.

In the circumstances, this Court has to see whether the said finding is perverse on the face of it.

The Act was enacted to regulate the issue of community certificates relating to those communities. Section 5 of the Act empowers the District Collector to either *suo motu* or on a complaint by any person call for the record and enquire into the correctness of a community certificate obtained by a person before or after commencement of the Act. Subsection (2) thereof empowers the Government also to exercise the same power. Section 6 of the Act casts burden on the person who claims to belong to a particular community. Section 7 of the Act provides for an appeal and review.

Section 8 of the Act is a provision made for revision by Government. The penalties for obtaining a community certificate by furnishing false information or false statement or fraudulent means is provided in Section 10 to 14 of the Act. Rules were framed in 1997 regulating the procedure provided for in the Act.

In **Valsamma Paul's** case (supra) the issue related to the social status arising out of inter-caste marriage/inter-religion marriage. The appellant, who belongs to Syrian Catholic (a Forward Class), married one J.Yesudas, a Latin Catholic (a Backward Class), and in those circumstances the issue was considered. The present case does not relate to such a situation and the said decision is not relevant.

D.Sudershan's case (supra) is a case relating to cancellation of caste certificate by the District Collector without referring the matter to the Scrutiny Committee as contemplated under Rule 9, but basing his order on the report of the Commissioner of Tribal Welfare. In the instant case, the District Level Scrutiny Committee scrutinized the case of the petitioner and, hence, this decision has no application.

Ayaaubkhan Noorkhan Pathan's case (supra) is a case relating to the scrutiny of the social status of the appellant by the Caste Certificate Scrutiny Committee when the fifth respondent before the Supreme Court filed a complaint through an Advocate before the Scrutiny Committee for the purpose of recalling the validity certificate on the ground that the appellant had obtained employment by way of misrepresentation. The Scrutiny Committee rejected the said application. When the High Court set aside the order of the Scrutiny Committee and remanded the matter to the Scrutiny Committee, an appeal was preferred before the Supreme Court. The locus standi of the fifth respondent therein was considered by the Supreme Court and held that the complaint was not bonafide. However, the enquiry by the Scrutiny Committee was not set aside. Section 5 provides for written

complaint by a person, under the provisions of Act No.16 of 1993, and hence, the said case also has no application.

In the instant case the petitioner claims to be belonging to “Kammara” community, which is included in the list of Scheduled Tribes at serial No.5 whereas the authorities noticed that he belongs to “Kammari” community included in the Backward Classes. Admittedly, his ancestors came from Tamil Nadu State and they migrated to Panyam Village and settled there. He got married to a woman of his community and his community members are doing the profession of Blacksmithy. The characteristics of “Kammara” community included in the Scheduled Tribe category were identified by the Government and they were circulated in Government Memo No.984/CV.2/1998-3, dated 23.07.1999.

They read as follows:

- (a) The traditional occupation of Kammaras (STs) living in Scheduled Areas is blacksmith and carpentry and serve the other tribes. But most of them gave up their traditional occupation and taken to shifting cultivation as well as settled cultivation.
- (b) The Kammara tribe is divided into a number of totemic clans such as Korra (sun), Killo (tiger) Bhalu (Bear) Samardi (flower) Pangi (kite) etc;
- (c) Marriage by mutual love and elopement, marriage by capture, marriage by service and marriage by negotiations are socially approved forms of acquiring mates. Both fevirate and sororate types of marriages are in vogue.
- (d) Kammara Tribe people eat pork and beaf.
- (e) They worship Nishan Devatha, Sanku Devatha, Jakiri Devatha and Gangamma. They perform Chaitpurab, Gangamma Panduga and first fruit/crop eating ceremonies such as Mamidi Kotha, Kandi Kotha, Chikkudu Kotha
- (f) They have tribal council of their own which regulates the social life of Kammaras and settles disputes, and
- (g) They bury the dead.

In the enquiry before the District Collector the petitioner submitted his tenth class Transfer Certificate and the Scheduled Tribe (Kammara) caste certificates dated 14.07.1977, 18.11.1981, 10.09.1982 and 01.10.1982 issued by the then Tahsildar, Nandyal,. The evidence of his father-in-law was also recorded. In a dispute regarding caste and community certificates, the caste certificates obtained by the parties are not conclusive. They have to independently prove their social status on the basis of the characteristics belonging to their community as pointed by in the Government Memo dated 23.07.1999. The petitioner failed to discharge the burden cast on him under Section 6 of the Act.

In the circumstances, this Court sees no error in the impugned orders passed by respondent Nos.1 and 4. The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

28.03.2016

VS

[\[1\]](#) (1996) 3 SCC 545

[\[2\]](#) 2002 (3) ALD 678 (DB)

[\[3\]](#) (2013) 4 SCC 465 : AIR 2013 SC 58