

**THE HON'BLE SRI JUSTICE
M.S.RAMACHANDRA RAO**

WRIT PETITION No.36643 of 2015

ORDER:

Heard Sri Palles Nageswar Rao, learned counsel for petitioner and the learned Special Government Petitioner representing learned Advocate General for respondents.

2. The petitioner has questioned the proceedings dt.17-08-2015 of the 3rd respondent refusing the petitioner's application dt.03-04-2015 for issuance of Caste Certificate stating that petitioner belongs to Madasi Kuruva community as per A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act").

3. Petitioner contends that petitioner and his parents belong to the said community, that after the petitioner applied for Scheduled Caste certificate through Mee Seva certificates, the Mandal Revenue Inspector-I, Kallur enquired into the matter and submitted a report to the 4th respondent stating that petitioner's parents belong to Madasi Kuruva community, which is notified as Scheduled Caste community, that the Transfer Certificate of petitioner also recorded the caste of the petitioner as Madasi Kuruva, but on

the ground that the petitioner did not follow the traditional customs which were being followed by his parents, the Mandal Revenue Inspector-I recommended for rejection of the said caste certificate to the petitioner.

4. Learned counsel for petitioner contends that the action of the 3rd respondent in rejecting the petitioner's application for issuance of Scheduled Caste certificate under the provisions of the Act is arbitrary, illegal and perverse and if the reasoning of the respondent Nos.3 and 4 is to be accepted, a child born to Scheduled Caste parents would not be able to avail of any benefit of reservations either in education or employment, if it is insisted that the child also should follow the same traditional customs as were being followed by his parents.

5. Learned Special Government Pleader appearing for respondents states that in the Writ Petition, the petitioner had pleaded about Kuruva caste being included in the B.C.-B category, that the petitioner had alleged that respondents are misleading the members of Maddu Kurava community to obtain certificates in B.C.-B category and therefore the Writ Petition may not be entertained.

6. It is not disputed that the application of petitioner for issuance of community certificate refers to Madasi Kuruva of Scheduled Caste community only. The petitioner never applied for B.C.-B community certificate. Therefore this argument of the learned Government Pleader is irrelevant.

7. The next contention of the learned Special Government Pleader appearing for respondents is that the petitioner has alternative remedy under the Act. He also relied upon a Division Bench of this Court dt.20-11-2012 in W.P.No.35527 of 2012. In the said decision, it has been held as under:

“This is not to say that this Court has no jurisdiction to judicially review such errors as well. It is a trite principle that the constitutional authority of this Court under Article 226 of the Constitution cannot be circumscribed or impeded by creation of statutory appellate remedies. The principle that in the context of any available alternative remedy, judicial review must be avoided, is a principle engendered for efficient exercise of the function of adjudication across different tiers in the hierarchy of the judiciary, a measure of division of labour. Where there is an efficient alternative statutory remedy provided by way of an appeal under Section 31 of the Act and the appellate authority is adequately authorized (on this score there is no dispute even by the petitioner) to go into errors both of law and of fact recorded by an assessing authority; and where the error as pointed out in the present case is not one

that goes to the root of the jurisdiction of the respondent-assessing authority, but an error allegedly in the legitimate; but allegedly erroneous exercise of it, we consider it appropriate that the aggrieved assessee must be relegated to the statutory remedy of an appeal; and judicial review in the circumstances, must be declined, to facilitate efficient exercise of the extra-ordinary remedy of judicial review and its conservation for appropriate cases involving extreme error.”

8. The said decision deals with challenge to an order of assessment dt.26-09-2012 under provisions of the A.P.VAT Act,2005 where the Writ Petition was filed by-passing the statutory remedy under Section 31 of the said Act.

9. However, the Supreme Court in **United Bank of India Vs. Satyawati Tondon and others^[1]**, **General Manager, Sri Siddeshwara Cooperative Bank Limited and another Vs. Ikbal and others^[2]** and **Union of India and others Vs. Mangal Textile Mills India Private Limited and others^[3]** has held that existence of an alternative remedy is not an absolute bar to the exercise of jurisdiction under Article 226 of Constitution of India. It has observed that rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion.

10. In **Commissioner of Income Tax and others Vs. Chhabil Das Agarwal**^[4], the Supreme Court observed that non-entertainment of petitions under Writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation and is not a rule of law. It observed that undoubtedly it is within the discretion of the High Court to grant relief under Article 226 of Constitution despite existence of an alternative remedy.

11. In view of the above legal position, I reject this contention raised by the learned Government also.

12. A reading of the impugned endorsement dt.17-08-2015 clearly indicates that the rejection of petitioner's application is on the basis of report of the 4th respondent dt.01-07-2015 made to the 3rd respondent. In that report, the 4th respondent had referred to the enquiry conducted by the Mandal Revenue Inspector-I, Kallur, wherein the Mandal Revenue Inspector categorically confirmed that the parents of the petitioner belong to Madasi Kuruva (S.C. community). The 4th respondent had recommended rejection of petitioner's application on the only ground that the petitioner has not

followed traditional custom as of his parents. This, according to me, is a shocking reason. If such a reasoning is accepted, no child of S.C. or B.C. caste person would be entitled to avail the benefit of reservation either in education field or for the purpose of employment.

13. In view of this shockingly perverse reasoning of the 3rd respondent, this Court is entitled to entertain this Writ Petition and grant relief to the petitioner.

14. Accordingly, the Writ Petition is allowed; the endorsement dt.17-08-2015 of the 3rd respondent is set aside; and since there is no dispute that the parents of the petitioner belong to Madasi Kuruva (S.C. community), 3rd respondent is directed to issue certificate under the above Act certifying that the petitioner belongs to Madasi Kuruva (S.C. community). This exercise shall be completed within four (04) weeks from the date of receipt of a copy of this order. No costs.

15. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-07-2016
Vsv

[\[1\]](#) (2010) 8 SCC 110

[\[2\]](#) (2010) 10 SCC 83

[\[3\]](#) (2010) 14 SCC 553

[\[4\]](#) (2014) 1 SCC 603