

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.26705 of 2007

ORDER:

In the present writ petition, challenge is to the order passed by the first respondent/State Government vide G.O.Ms.No.122, dated 15.11.2007 and the order of the second respondent/District Collector, R.R. District, Hyderabad bearing No.C2/8335/97, dated 02.12.2003.

2. Heard Sri K.Rama Subba Rao, learned counsel for the petitioner as also the learned Government Pleader for Social Welfare for the respondents.

3. Petitioner herein is an employee in the third respondent organization. The District Collector, Ranga Reddy District, Hyderabad/second respondent herein pressed into service the provisions of the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (hereinafter called 'the Act') and issued an order vide proceedings No.C2/8335/97, dated 02.12.2003, under Section 5 (1) of the Act, canceling the Scheduled Tribe Caste Certificate issued in favour of the petitioner earlier on 15.05.1985 by the Tahsildar. Aggrieved by the said order of cancellation, the petitioner herein preferred statutory appeal on 08.01.2004 under Section 7 of the Act before the first respondent/State Government. The first respondent/State Government by way of G.O.Ms.No.122, dated 15.11.2007, dismissed the said appeal.

4. Calling in question, the validity and the legal sustainability of the said orders passed by the appellate and primary authorities, the present writ petition came to be filed.

5. This Court, while ordering *Rule Nisi* on 14.12.2007, granted interim stay of further proceedings in WPMP.No.34864 of 2007 pursuant to the impugned orders.

6. It is contended by the learned counsel for the petitioner that the findings of the primary and the appellate authorities are erroneous, contrary to law and opposed to the very spirit and object of the provisions of the Act and the Rules framed thereunder. It is further submitted by the learned counsel that the conclusions arrived at by the authorities are contrary to the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Rules, 1997 (hereinafter called 'the Rules'). It is further contended that both the primary and the appellate authorities thoroughly failed in considering the material available on record.

7. On the contrary, it is contended by the learned Government Pleader for Social Welfare, appearing for the respondents that the orders passed by the primary and the appellate authorities are strictly in accordance with the provisions of the Act and the Rules and only after giving ample opportunity to the petitioner, the respondent authorities passed the impugned orders, as such, the said orders are not amenable for any judicial review under Article 226 of the Constitution of India. It is further contended by the learned Government Pleader that since the petitioner herein did not place on record any evidence in support of his claim, the respondent authorities correctly rejected the claim of the petitioner herein.

8. In the above backdrop, now the issue that boils down for consideration of this Court is\_ "Whether the respondents are justified in passing the orders under challenge and whether the same are in accordance with law?"

9. The information available before this Court vividly discloses that the District Collector, while enclosing a copy of the findings of the District Level Scrutiny Committee, issued a show-cause notice to the petitioner on 30.06.2003. In response to the said show-cause notice, on 23.07.2003, the petitioner herein submitted his explanation in an elaborate manner. The

District Collector, on 02.12.2003, passed an order of cancellation of the Caste Certificate issued earlier in favour of the petitioner herein. The validity of the same was questioned by the petitioner by way of filing a statutory appeal under Section 7 of the Act before the State Government. A perusal of the order passed by the State Government vide G.O.Ms.No.122, dated 15.11.2007, demonstrates that on four grounds the Government rejected the appeal filed by the petitioner herein.

10. The first reason assigned by the State Government for rejecting the claim of the petitioner is that migration from agency area cannot be the basis for claiming S.T. Lingadhari Koya status. This, in the considered opinion of this Court, cannot be sustained as the said migration would not change the caste status. The said reason is obviously not in consonance with the object and intention of the enactment. The migration from the agency area to an urban area within the State would not automatically change the caste status of an individual. The second reason assigned by the State Government is that since an officer of TCR & TI from the office of the Commissioner of Tribal Welfare is a member of DLSC, the failure on the part of the Collector to cause enquiry through the PCR & Vigilance Cell is not mandatory. In this connection, it may be appropriate to refer to the provisions of Rules 9 (3) and (5) of the Rules, which read as under:

“(3) The Scrutiny Committee shall in such cases cause enquiry by the Protection of Civil Rights/Vigilance Cell also i.e., through the officer representing the Protection of Civil Rights/Vigilance Cell as the member of the committee. The protection of Civil Rights/Vigilance Cell should investigate the social status claimed by the person by the sending the Inspector of Police to the local place of residence of that person and where he/she usually resides or in case of migration, to the town or city from which he/she originally hailed from. The Inspector should personally verify and collect all the facts, about the community claim of the person or the guardian or the parent, as the case may be.

(5) The Scrutiny Committee shall compare the enquiry reports of the Revenue Department furnished by the District Collector, the reports of the Protection of Civil Rights/Vigilance Cell and the reports of the Expert or officer of the Research Organization of the Commissionerate of Social Welfare/Tribal Welfare and then finalize its findings whether the Community, Nativity and Date of Birth Certificate given to the person or his/her children is genuine or otherwise.”

11. The above provisions of law mandate the Scrutiny Committee to cause enquiry by the Protection of Civil Rights and Vigilance Cell also through the officer representing the Protection of Civil Rights/Vigilance Cell. Sub-Rule (5) of Rule 9 of the Rules also mandates the Scrutiny Committee to compare the entire reports of the Revenue Department furnished by the District Collector, the reports of the Protection of Civil Rights/Vigilance Cell and the reports of the Expert or officer of the Research Organization of the Commissionerate of Social Welfare/Tribal Welfare. The above requirements as mandated under the said provisions of law were not taken into consideration by the first respondent while deciding the appeal.

12. The third reason assigned by the Government is that the caste entry in the Transfer Certificate made on the basis of the Caste Certificate of the father of the petitioner is not a conclusive proof. While considering the said aspect, the first respondent lost sight of sub-Rule (5) of Rule 8 of the Rules, which mandates the Scrutiny Committee to examine the school records, birth registration certificates, if any, furnished by the persons during the enquiry.

13. The fourth reason assigned by the first respondent/State Government for rejecting the appeal is that the petitioner did not mention about the traditional pattern of marriages, marriage rites, clan deities, death rites etc., in the explanation. In this connection, the learned counsel for the petitioner has brought to the notice of this Court the explanation offered by the petitioner dated 23.07.2003 in response to the show-cause notice dated 30.06.2003. The

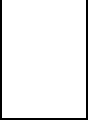
said explanation furnishes the information pertaining to Gothrams and other particulars. In fact, at paragraph (iii) of the appeal also petitioner furnished the information. The first respondent herein did not undertake any exercise to consider the same while dealing with the appeal.

14. It is a settled and well established proposition of law that the orders of the quasi judicial authorities should necessarily be supported by reasons and it is also obligatory on the part of the quasi judicial authorities to consider all the aspects and record findings on the same. In the considered opinion of this Court, the said exercise is conspicuously absent in the instant case. Since the Scrutiny Committee failed to undertake any exercise as mandated under Rules 8 (5), 9 (3) and 9 (5) of the Rules and as the appellate authority also did not consider the effect of non-adherence to the said provisions of law, this Court deems it appropriate to remand the matter to the primary authority for fresh consideration, in accordance with law.

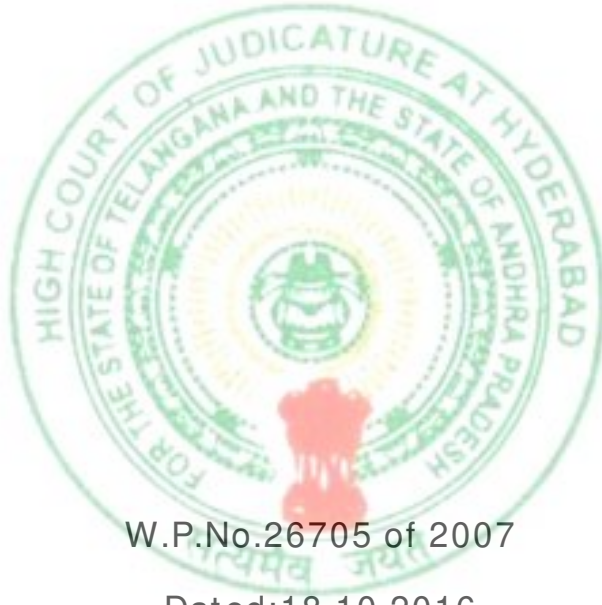
15. For the aforesaid reasons, the writ petition is allowed, setting aside the order of the State Government/first respondent herein passed vide G.O.Ms.No.122, Social Welfare (CV.2) Department dated 15.11.2007 and the order passed by the District Collector/second respondent herein vide proceedings No.C2/8335/97, dated 02.12.2003 and the Second respondent District Collector is at liberty to initiate the proceedings afresh and conclude the same in accordance with law. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:18.10.2016  
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.26705 of 2007

Dated:18.10.2016

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