

THE HON'BLE SRI JUSTICE ASHUTOSH MOHUNTA
AND
THE HON'BLE SRI JUSTICE N.RAVI SHANKAR

WRIT PETITION No.24802 of 2012

ORDER: (Per THE HON'BLE SRI JUSTICE N.RAVI SHANKAR)

Heard Sri D.V.Sudhir Kumar, the learned counsel for petitioner, and the learned Government Pleader for Revenue appearing for the official respondents.

The applicant in O.A.No.6282 of 2008 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (Tribunal), and he filed this writ petition questioning the order dated 16.07.2009 of the Tribunal by which it dismissed the said OA.

2. The writ petitioner Rathod Dhanraj is admittedly a scheduled tribe candidate i.e. lambada community and he is a resident of Anarpally village of Kerameri mandal in Adilabad District. The Government of Andhra Pradesh issued a notification in the year 2005 notifying certain posts of deputy surveyors. So far as Adilabad District is concerned 22 posts were notified out of which 7 were meant for scheduled tribe candidates and out of them 6 posts belonging to that category were to be filled up by eligible candidates who hail from an agency area.

3. The petitioner was qualified both in the written test and the physical endurance test and scored 44 marks which were higher than the marks secured by respondents 5 and 6. The petitioner applied for one of the above 6 posts which were to be filled up by the candidates belonging to a scheduled area. In the ultimate selection the petitioner however failed to produce the relevant certificates from the competent authority at the time of interview to show that his village Anarpally is in a scheduled area and therefore his candidature was rejected by the official respondents and unofficial respondents 5 and 6 were selected.

4. The plea of the petitioner is that his village Anarpally is a hamlet of Devapur in Kerameri mandal of Adilabad District and he produced the relevant certificates but the authorities unjustifiably refused his candidature.

5. The 4th respondent i.e. the Assistant Director of Survey and Land Records filed counter reiterating the stand of the official respondents that the petitioner's village is not in a scheduled area and therefore he is not eligible. Several other facts have also been pleaded in the counter in support of the stand of the official respondents.

6. Questioning the above action of the official respondents in not selecting him, the petitioner filed aforesaid OA and as the Tribunal dismissed the same he is now before us.

7. It may be noted that administration of scheduled areas is governed by the V schedule to the Constitution and various other laws enacted or applied to those areas consistent with the provisions of the Constitution. It would be pertinent to note that para-6(1) in part-C of schedule V to the Constitution in substance says that the expression "scheduled areas" in the V schedule means such areas as the President of India may by order declare to be scheduled areas. It is thus clear that for an area to be treated as a scheduled area it should be notified by the President as such by a notification. The stand of the official respondents is that the village Anarpally is not part of any scheduled area notified as such by the President.

8. In support of the above contention the learned Government Pleader filed a copy of the Girijan Samskriti which is a special issue on scheduled tribe community certificates published by the Tribal Cultural Research and Training Institute, Tribal Welfare Department, Government of Andhra Pradesh, Hyderabad, containing a state-wide list of scheduled areas in

Andhra Pradesh. This list purports to have been extracted from the Scheduled Areas in the State of Andhra Pradesh as were notified by the Scheduled areas (Part A States) Order, 1950, which are obviously under schedule V of the Constitution. This list shows only Devapur in the then Luxettipet taluq of Adilabad District as part of that scheduled area which we are told was subsequently brought into Kerameri mandal.

9. Unfortunately, neither side has filed before us copies of the original notification issued by the President showing the areas in Andhra Pradesh which are declared as scheduled areas. It may be noted that when the petitioner has come before the Court to establish a claim it is for him to produce that notification in support of his claim that his village is part of or notified as a scheduled area and having failed in doing that it follows that he must be held to have failed in establishing his claim.

10. Added to the above negative point in the petitioner's case, in the counter filed by the 4th respondent it is stated that Devapur village consists of 7 hamlets namely (1) Kathi guda, (2) Kolamdugu, (3) Temlaguda, (4) Jairamguda, (5) Somulaguda, (6) Thummuguda and (7) Garyaguda but not Anarpally. It is also stated in the counter that there is a border dispute between the State of Andhra Pradesh and the State of Maharashtra in respect of 12 border villages and Anarpally village is also one of those 12 villages and is the subject matter of the above dispute which is pending before the Hon'ble Supreme Court and it is not a notified scheduled area village and the petitioner cannot be treated as a candidate hailing from a scheduled area village.

11. It is also stated in the counter that earlier the petitioner produced a certificate given by the competent authority but subsequently, after the selection process, he produced a certificate bearing No.E/223/2005-14 dated nil-5-2005 issued by the mandal revenue officer of Kerameri mandal in support of his claim. It is further stated in the counter that the

Assistant Director himself proceeded to Kerameri mandal for verification of the genuineness of the above certificate produced by the petitioner and the said verification revealed that the number quoted on the certificate was assigned to a certificate issued to one Sidam Gangaram and it was not related to the petitioner and therefore it was found to be a bogus certificate.

12. Thus, to sum up, what emerges is that the petitioner failed to file any Presidential notification or any other reliable document to show that his village Anarpally is a scheduled area village which alone entitles him to the appointment. On the other hand, the petitioner filed some additional material papers such as a copy of District Census Hand Book, Adilabad, and some appointment orders issued to one Madhavi Tirumala and Rathod Anamika as secondary grade teachers, a copy of the forest rights certificates issued to one Rathod Goriya and another Eplavat Sukhlal both of whom are described as residents of Anarpally regarding certain lands in a scheduled area. May be, but from the above documents it cannot be concluded positively that Anarpally is in a scheduled area and it is quite possible that the above certificates or appointments issued treating the above individuals as scheduled tribe candidates. The petitioner is also a scheduled tribe candidate but the qualification required here is that his village should be in a scheduled area and that is not proved by the petitioner. In the above circumstances, it follows that there is no ground to interfere in this matter.

13. Accordingly, this Writ Petition is dismissed. No costs. Consequently, all the miscellaneous petitions pending, if any, shall stand closed.

ASHUTOSH MOHUNTA, J

N. RAVI SHANKAR, J

18th April, 2013

CVRK