

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.44429 OF 2016

ORDER:

The present writ petition is filed by the petitioner seeking to declare the inaction of the 1<sup>st</sup> respondent in passing orders on the stay application filed by the petitioner in Appeal No.2074/ F of 2016, aggrieved by the order, dated 09.11.2016, passed by the 2<sup>nd</sup> respondent, as illegal and arbitrary and consequently, direct the 1<sup>st</sup> respondent to pass orders on the stay application filed by the petitioner in Appeal No.2074/ F of 2016.

Heard and perused the material available on record.

The case in brief is that the petitioner was elected as Sarpanch of Nandyalampet village in the year 2013. The 6<sup>th</sup> respondent made a representation before the 2<sup>nd</sup> respondent alleging that the petitioner contested as a Sarpanch of Nandyalampet village by obtaining bogus B.C-E certificate, though she belongs to OC community. The 2<sup>nd</sup> respondent called for a report from the 3<sup>rd</sup> respondent, and the 3<sup>rd</sup> respondent after conducting enquiry, submitted that the petitioner belong to 'Syed' Caste. Therefore, the 2<sup>nd</sup> respondent issued orders canceling the caste certificate of the petitioner vide order, dated 09.11.2016. Challenging the said order, the petitioner preferred an appeal before the 1<sup>st</sup> respondent along with a stay application.

Learned counsel for the petitioner submitted that the 2<sup>nd</sup> respondent has not given any notice to the petitioner prior to passing orders, dated 09.11.2016, and the 6<sup>th</sup> respondent filed WP No.43053 of 2016 seeking implementation of the order of the 2<sup>nd</sup> respondent.

On the other hand, learned counsel for the 6<sup>th</sup> respondent fairly submitted that the order of the 2<sup>nd</sup> respondent, which is challenged before the 1<sup>st</sup> respondent suffers with infirmity since the 2<sup>nd</sup> respondent has not issued any notice to the petitioner prior to taking decision on the representation made by the 6<sup>th</sup> respondent.

Taking into consideration the submissions of both the learned counsel, this Court is inclined to pass the following order:

The order, dated 09.11.2016, passed by the 2<sup>nd</sup> respondent is set aside and the 2<sup>nd</sup> respondent is directed to pass orders afresh on the representation made by the 6<sup>th</sup> respondent, after giving notice to the petitioner and after hearing both the parties, within a period of three (3) months from the date of receipt of a copy of this order. The petitioner is also directed to approach the 2<sup>nd</sup> respondent and place her grievance during the enquiry to be conducted by the 2<sup>nd</sup> respondent.

Accordingly, the Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

December 23, 2016  
KTL



