

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

WRIT PETITION No.5068 of 2008

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order of the State Government passed vide G.O.Ms.No.35, Social Welfare (CV.1) Department, dated 26.02.2008 and the orders of the District Collector, Karimnagar District/Second respondent herein, issued vide proceedings No.C4/2126/2000, dated 31.05.2005.

2. According to the petitioners, they belong to Kolupulavandlu caste, which is a Scheduled Caste enlisted at Serial No.30 of the Constitution (Scheduled Caste) Order, 1980. The District Collector, Karimnagar district/second respondent herein issued a show cause-notice dated 29.07.1992, calling upon the petitioners to show cause as to why the caste certificates obtained by the petitioners should not be cancelled.

3. The petitioners herein filed W.P.Nos.13851 and 16112 of 1992 before this Court and this Court disposed of the said writ petitions by way of a common order dated 01.04.2004, directing the District Collector to examine the matter in view of the report of the High Level Consultation Committee and also Section 5 of the A.P (Scheduled Caste, Scheduled Tribe & Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (hereinafter called the 'Act') and to pass appropriate orders.

4. Challenging the said orders, petitioners herein preferred Writ Appeal Nos.1240 and 1291 of 2004, and this Court, by way of a common order dated 13.09.2004, disposed of the said Writ Appeals, directing the District Collector to proceed in accordance with law and take his own decision in the light of the observations made in the said order, while keeping it open for the petitioners to offer their replies to the show-cause notice. Subsequently, the District Collector, second respondent herein, issued an order vide proceedings No.C4/2126/2000, dated 31.05.2005, canceling the caste certificates issued by the Tahsildar in favour of the petitioners under Section 5 (1) of Act 16 of 1993.

5. Aggrieved by the said order of cancellation passed by the District Collector, second respondent herein, initially, the petitioners herein filed WP.Nos.14611 and 14646 of 2005 and this Court, by way of a common order dated 07.07.2005, dismissed the said writ petitions on the ground of availability of alternative remedy of appeal before the Government. Thereafter, the petitioners herein preferred the statutory appeal on 19.07.2005 before the State Government under Section 7 of the Act. The State Government vide G.O.Ms.No.35, Social Welfare (CV.1) Department, dated 26.02.2008, rejected the said appeal while upholding the orders passed by the District Collector on 31.05.2005.

6. Challenging the validity and the legal sustainability of the said order of the Government issued vide G.O.Ms.No.35, Social Welfare (CV.1) Department, dated 26.02.2008, confirming the orders of cancellation passed by the District Collector on 31.05.2005, the present writ petition came to be filed.

7. This Court, while ordering *Rule Nisi* on 11.03.2008 in WPMP.No.6594 of 2008 granted interim suspension of the operation of the impugned

G.O., subject to the condition that the petitioners should not make further claim as to the social status.

8. By way of an order dated 18.03.2016 the interim order was made absolute, while dismissing WVMP.No.4971 of 2015 filed by the respondents. In support of the said vacate application a counter affidavit has been filed by the respondents, denying the averments and allegations made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

9. Heard Sri D.V.Seetharam Murthy, learned Senior Counsel for the petitioners and the learned Government Pleader for Social Welfare for the respondents apart from perusing the material available before the Court.

10. It is contended by the learned Senior Counsel that the District Collector, in total deviation to the procedure stipulated under Act 16 of 1993 and the Rules made thereunder, passed the orders of cancellation. It is also submitted that the impugned action is not only violative of the provisions of the statute but also in utter disregard of the principles of natural justice since no reasonable opportunity was afforded to the petitioners before passing the impugned order of cancellation. It is the further submission of the learned Senior Counsel that in a mechanical manner the first respondent also confirmed the orders of the District Collector without there being any independent assessment basing on the material available. It is the further submission of the learned Senior counsel that the first respondent, being a quasi judicial authority, is bound to assign valid reasons in support of the conclusions and the same are absent. It is also submitted that the State Government grossly erred in relying upon the opinion of the consultant and the same is beyond

11. On the contrary, it is vehemently contended by the learned Government Pleader that there is absolutely no illegality nor there exists any procedural infirmity in the impugned order and the District Collector as well as the State Government passed the orders under challenge strictly adhering to the mandatory provisions of the legislation and strictly in accordance with the principles of natural justice. It is also the submission of the learned Government Pleader that only after thoroughly and meticulously considering the entire material available on record, the District Collector and the State Government passed the orders under challenge and in the absence of any perversity in the conclusions Writ in the nature of Certiorari is not maintainable.

13. The information available before this Court manifestly discloses that as against the orders of the District Collector, Karimnagar District/second respondent herein, dated 31.05.2005, the petitioners herein preferred the statutory appeal before the State Government on 19.07.2005. By way of the impugned Governmental order the State Government rejected the appeal filed by the petitioner. A perusal of the memorandum of grounds of appeal filed before the State Government makes it abundantly clear that the petitioners herein raised a number of grounds and pointed out various infirmities in the procedure adopted by the District Collector and the deficiencies contained in the order of the Collector. A perusal of the order of the State Government, which is under challenge, clearly discloses that except extracting the submissions of the petitioners and the remarks of the authorities, the first respondent State Government did not make any endeavour to consider various issues raised by the petitioners independently. Another important aspect which needs mention in this context is that the State Government completely relied on the opinion of the senior consultant. A copy of the order of the State Government issued vide G.O.Rt.No.271, dated 31.05.2005, appointing the said consultant is also placed on record by the learned counsel for the petitioners along with the writ petition and paragraph 3 of the said G.O.Rt.No.271 reads as under:

14. While referring to the above mentioned paragraph, it is the contention of the learned counsel for the petitioners that

A.V. SETHA SAI, J

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

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Dated 07th June, 2016

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^[1] AIR 1976 SC 1785