

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

W.P.No.3977 of 2008

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the first respondent/State Government vide G.O.Ms.No.142, Social Welfare (CV.2) Department, dated 26.12.2007, rejecting the appeal filed by the petitioner, thereby upholding the order passed by the District Collector/East Godavari District, dated 29.12.2005.

2. According to the petitioner, he belongs to Valmiki Community, a Schedule Tribe and the Mandal Revenue Officer, Addateegala, East Godavari District, after holding enquiry, issued a Caste Certificate in favour of the petitioner on 25.01.1989, certifying that the petitioner belongs to Valmiki Community, a Scheduled Tribe.

3. The respondent authorities pressed into service the provisions of the A.P. (S.C, S.T & B.C) Regulation of Issue of Community Certificates Act, 1993 (hereinafter called 'the Act') and the District Collector passed an order vide proceedings Ref.No.C5/1694/97, dated 04.12.2002, cancelling the Caste Certificate issued by the Mandal Revenue Officer earlier in favour of the petitioner. Aggrieved by the said order of cancellation passed by the District Collector, petitioner herein preferred a Statutory Appeal under the provisions of Section 7 of the Act. The first respondent/State Government vide G.O.Ms.No.142, Social Welfare (CV.2) Department, dated 26.12.2007, rejected the said appeal filed by the petitioner and confirmed the order of cancellation passed by the second respondent/District Collector. The validity and the legal sustainability of the said orders passed by the respondents 1 and 2 are under challenge in the present writ petition. This Court issued *Rule Nisi* on 26.02.2008.

4. Heard Sri K.Venkatesh, learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents.

5. It is contended by the learned counsel for the petitioner that the orders passed by the primary and appellate authorities are illegal, arbitrary, irrational and violative of Articles 14 of the Constitution of India and opposed to the very spirit and object of the provisions of the Act and the Rules framed there-under. It is further contended by the learned counsel for the petitioner that neither the primary authority nor the appellate authority considered the material available on record and the orders impugned in the writ petition are completely devoid of any valid reasons. It is further contended that having issued Schedule Tribe Certificate in favour of the paternal uncle and the sister's daughter of the petitioner, there is absolutely no justification on the part of the respondents in denying the same caste status of the petitioner.

6. On the contrary, it is strenuously contended by the learned Government Pleader that in the absence of any perversity, the orders passed by the respondent authorities are not amenable for any correction by this Court under Article 226 of the Constitution of India. It is further argued by the learned Government Pleader that only after thoroughly and meticulously considering the entire material and various documents, the District Collector passed the order of cancellation and the first respondent State Government confirmed the same.

7. In the above backdrop, now the issues that boil down for consideration of this Court are:

1. Whether the orders impugned in the present writ petition passed by the respondents 1 and 2 are sustainable and tenable? and

2. Whether the petitioner herein is entitled for any relief from this Court under Article 226 of the Constitution of India.

8. The material available before this Court manifestly discloses that the Revenue Divisional Officer, Rampachodavaram vide his report dated 23rd April, 2001 confirmed that the petitioner belongs to Valmiki Caste, a Schedule Tribe. In the said report, the Revenue Divisional Officer also referred to the Caste status of the paternal uncles i.e., father's brothers of the petitioner viz., K. John Bhaskar Rao. In fact, the respondent authorities initiated enquiry with regard to the Caste Status of said Sri John Bhaskar Rao and the District Collector passed an order vide proceedings Ref.C5/M/345/97 dated 17.05.2004. In the said order, the District Collector confirmed the caste status of the said John Bhaskar Rao as Valmiki, a Scheduled Caste. A copy of the said order is placed on record along with the writ petition as material. In fact, the same is not disputed by the respondents.

9. Another significant aspect which needs mention in this context is that in the Grounds of Appeal filed before the State Government/first respondent herein, the petitioner herein brought to the notice of the first respondent about the above proceedings of the District Collector dated 17.05.2004.

10. The petitioner herein filed WPMP.No.43537 of 2015, seeking permission of this Court to receive additional affidavit and material papers enclosed with the same. The material papers enclosed with the said WPMP.No.43537 of 2015 include G.O.Ms.No.18, Social Welfare (CV.2) Department, dated 04.05.2012. In fact, the petitioner's sister's daughter one Smt. Jetti Sirisha, aggrieved by the orders of cancellation of Caste Certificate passed by the District Collector dated 28.02.2011, filed a statutory appeal before the State Government under Section 7 of the Act and the State Government by virtue of the said G.O.Ms.No.18 dated 04.12.2012, while setting the order of cancellation dated 28.12.2011, upheld the Scheduled

Tribe Valmiki certificate issued in favour of the said Smt. Jetti Sirisha. It is further clear from G.O.Ms.No.142, Social Welfare (CV.2) Department, dated 26.12.2007 that the issuance of caste certificate in favour of his paternal uncle Sri John Bhaskar Rao was brought to the notice of the State Government. It is further clear from the said order that without assigning valid reasons, the State Government refused to consider the same.

11. The above narration in vivid and unequivocal terms demonstrates that both the primary as well as the appellate authorities failed to consider the material available on record from a proper perspective, which resulted in cancellation of the Caste Certificate issued earlier in favour of the petitioner. Therefore, this Court has absolutely no hesitation to hold that the questioned orders passed by the primary and appellate authorities cannot be sustained in the eye of law and accordingly the order passed by the District Collector/Second respondent vide proceedings dated 29.12.2015 and G.O.Ms.No.142, Social Welfare (CV.2) Department, dated 26.12.2007 are liable to be set aside.

12. For the aforesaid reasons, the writ petition is allowed, setting aside the orders passed by the District Collector/Second respondent vide proceedings dated 29.12.2015 and the orders passed by the first respondent/State Government vide G.O.Ms.No.142, Social Welfare (CV.2) Department, dated 26.12.2007. However, this order will not preclude the respondents from initiating the proceedings afresh, in accordance with law. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No costs.

A.V.SESHA SAI, J

Date:31.10.2016
grk



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



W.P.3977 of 2008

Dated 31st October, 2016

grk







