

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

WRIT PETITION No.9199 of 2003

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the 4th respondent – State Government vide G.O.Ms.No.09 Social Welfare (CV.2) Department, dated 14-02-2003.

The Collector and District Magistrate pressed into service the provisions of the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act') and passed an order vide proceedings No.(M).RC.No.1794/93/07, dated 25-05-1998 canceling the Scheduled Tribe caste certificate of the petitioner, dated 06-07-1984 issued by the Tahsildar, Parvathipuram.

Questioning the validity of the said order of cancellation passed by the 2nd respondent, earlier the petitioner herein preferred a statutory appeal before the State Government. The State Government by way of proceedings, dated 13-08-1998 dismissed the said appeal filed by the petitioner as barred by time. Challenging the said order passed by the State Government, the petitioner filed writ petition No.24422 of 1998 before this Court and this Court disposed of the said writ petition by way of an order, dated 02-07-1999 and the operative portion of the said order reads as under:

"In my view, rejection of such matters in such manner pertaining to social status is not proper. The 1st respondent ought to have gone into the merits of the case and decide the matter on merits rather than on

technicalities. I, therefore, direct the 1st respondent to dispose of the appeal on merits taking into account all the relevant material and also by giving personal hearing to the petitioner and pass orders in accordance with law, within four months from the date of receipt of this order. Till such time, the operation of the order passed by the 2nd respondent-Collector shall stand suspended.”

Subsequently, vide G.O.Ms.No.09 Social Welfare (CV.2) Department, dated 14-02-2003 the State Government rejected the appeal filed by the petitioner. Assailing the validity and the legal sustainability of the said order passed by the State Government the present writ petition came to be filed.

This Court on 13-05-2003 while ordering *rule nisi* granted interim direction in W.P.M.P.No.11792 of 2003, directing the respondents to continue the petitioner in service. Responding to the *rule nisi* issued by this Court a counter-affidavit has been filed by the 2nd respondent – District Collector denying the writ averments and in the direction of justifying the impugned action.

Heard Sri M. Sreekanth, learned counsel for the petitioner and learned Government Pleader for Social Welfare for respondents.

It is contended by learned counsel for the petitioner that the order under challenge passed by the respondent – State Government is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India. It is the further submission of learned counsel for the petitioner that though the petitioner raised a number of contentions in the appeal filed before the respondent - State Government, the State Government did not

consider any one of the said contentions raised by the petitioner and the impugned order is completely bereft of any reasons much less valid reasons.

On the contrary, it is vehemently contended by learned Government Pleader for Social Welfare that there is no illegality nor there is any procedural infirmity in the impugned action and only after following the mandatory requirements of law the District Collector passed the orders of cancellation and the respondent – State Government confirmed the same.

In the above backdrop now the issue that emerges for consideration of this Court is:

Whether the impugned order passed by the respondent – State Government rejecting the appeal filed by the petitioner is in accordance with law?

The information available before this Court manifestly reveals that the District Collector vide proceedings, dated 25-05-1998 cancelled the caste certificate of the petitioner in exercise of the powers conferred under Section 5 (1) of the Act. Challenging the said order of cancellation, the petitioner herein filed appeal and initially the said appeal was dismissed by the State Government on the ground of delay and the said order of rejection was questioned before this Court by way of filing W.P.No.24422 of 1998 and this Court by way of an order, dated 02-07-1999 directed the State Government to dispose of the appeal on merits and now, by way of the questioned order vide G.O.Ms.No.09 Social Welfare (CV.2) Department, dated 14-02-2003 the 4th respondent – State Government rejected the appeal filed by the petitioner once again.

A perusal of the memo of grounds made available before

this Court by the petitioner along with the writ petition vividly discloses that the petitioner herein urged a number of grounds and contentions and pointed out various infirmities in the procedure adopted by the District Level Scrutiny Committee. A perusal of the order impugned shows that the State Government did not consider any one of the contentions urged by the petitioner in the grounds of appeal and without assigning any reasons much less valid reasons the State Government issued impugned order rejecting the appeal filed by the petitioner.

In this context it may be apt and appropriate to refer to the judgment of the Hon'ble Apex Court in case of ***the Siemens Engineering and Manufacturing Co. of India Limited v. The Union of India and another***^[1]. In the said pronouncement, the Hon'ble Apex Court at paragraph No.6 held that where an authority makes an order in exercise of a quasi-judicial function it must record its reasons in support of the order it makes and every quasi-judicial order must be supported by reasons. The Hon'ble Apex Court further held that the rule requiring reasons to be given in support of an order is, like the principle of *audi alteram partem*, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.

In the instant case, the said principle is completely given go by and the respondent – State Government did not deal with any one of the contentions raised by the petitioner for arriving the conclusion. In view of the same, in the considered opinion of this Court the impugned order passed by the State Government cannot

be sustained in the eye of law and the matter needs fresh consideration, in accordance with law, after giving opportunity of personal hearing to the petitioner.

For the aforesaid reasons, the writ petition is allowed, setting aside G.O.Ms.No.09 Social Welfare (CV.2) Department, dated 14-02-2003. Consequently, the appeal filed by the petitioner against the orders of the District Collector stands restored and the matter is remanded to the State Government for fresh consideration of the appeal filed by the petitioner, in accordance with law, after giving opportunity of personal hearing to the petitioner. Till such exercise attains finality, the interim order granted by this Court shall continue.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

A.V. SETHA SAI, J

June 03, 2016

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

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