

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

W.P.No.8033 of 2007

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Between:

K.Muthiam Reddy S/o K.Balaiah

...Petitioner

VERSUS

Government of Andhra Pradesh, rep. by its
Principal Secretary, Social Welfare (CV.II)
Department, Secretariat, Hyderabad & another.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 10.6.2016

SUBMITTED FOR APPROVAL:

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals?

Yes/No

3. Whether Their Lordship wish to see the
Fair copy of the judgment?

Yes/No

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< **GIST:**

> **HEAD NOTE:**

!Counsel for Petitioner : Sri Nandigam Krishna Rao
^Counsel for Respondents : G.P. for Social Welfare

? **Cases referred**

1. AIR 1994 AP 238

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

W.P.No.8033 of 2007

ORDER:

The challenge in the present writ petition is to the Memo bearing No.23728/CV-2/96-33 dated 27.5.2004 issued by the 1st respondent-State Government and the consequential proceedings bearing

Lr.No.3408/88/TRI/VC-6 dated 6.9.2006 of the 2nd respondent.

2. Heard Sri Nandigam Krishna Rao, learned counsel for the petitioner and the learned Government Pleader for Social Welfare appearing for respondents apart from perusing the material available on record.

3. According to the petitioner, he belongs to Naikpod Caste, which is a Scheduled Tribe community and on 27.10.1968, as per the regulations holding the field by then, the Member of Parliament, Adilabad issued a caste certificate dated 27.10.1968, certifying that the petitioner belongs to Gond Naikpod Scheduled Tribe community. Pursuant to the enquiries made, the Crime Investigation Department, Hyderabad addressed a letter to the Deputy Secretary to the Government (GAD) (SC&ST Cell), Hyderabad vide letter S.B.No.2756/C1/70 dated 19.9.1970 stating that the family of K.Muthiam Reddy, petitioner herein is not a Reddy family, but it is a family of Naikpode (Gond) community which comes under Scheduled Tribe and further stating that the Caste certificate submitted by the candidate is a genuine one. Subsequently, another round of enquiry was held against the petitioner and the Superintendent of Police, Crime Branch, CID, Hyderabad submitted a report vide proc R.O.No.102/C1/X/E/76 dated 1.10.1977 to the Inspector General of Police, A.P., Hyderabad, rejecting the petition filed by a third party against the petitioner with regard to his caste status. Subsequently, while advertng to a petition filed by one Mr.D.Hanumantha Rao, the Government vide Memo No.1494/SCA/71-72 dated 20.1.1979 stated that enquiries established that Sri K.Muthiam Reddy, Deputy Superintendent of Police, belongs to Scheduled Tribe while advising the complainant not to put in false petitions against the Government Servants again and again on the same issue. Thereafter, the Additional Secretary to Government, vide letter dated 4.6.1980, categorically instructed the Director General of Police and Deputy Inspector General of Police, Intelligence, Hyderabad not to entertain any more petitions on the question of caste of the petitioner on the ground that the matter was finally disposed of by the Government.

4. Subsequently, when the sons of the petitioner namely Mr.K.Rajagopala Reddy and Mr.K.Raja Krishna Reddy applied for caste certificate from the Tahsildar, Jagtial, the State Government vide

Memorandum No.18485/J2/94.9 dated 25.8.1995 on the request made by the District Collector, made a request to the Director of Tribal Welfare to conduct enquiry at the original village of the petitioner's father and to submit a report on the caste status of the petitioner's sons. Thereafter, vide Memo No.18485/S3/94.10 dated 7.2.1996 the State Government came to a conclusion that the petitioner belongs to Nayakpod S.T. Group and while saying so, the Government also observed in the said memo that there is no bar for holding fresh enquiry and directed the District Collector to enquire into social status of sons of the petitioner. Thereafter, the District Collector referred the matter to the District Level Scrutiny Committee constituted under the Chairmanship of Joint Collector for its findings on the caste status of the petitioner herein and his two sons. Thereafter, the District Level Scrutiny Committee submitted its report and pursuant to the said report, the District Collector vide Lr.No.C4/2432/94 dated 19.5.2001 addressed to the State Government, agreeing with the findings furnished by the District Level Scrutiny Committee. It is further clear from the said letter that the Committee found that the petitioner and his sons belong to Naikpodu, ST community.

5. Surprisingly, once again the State Government by virtue of Memo No.23728/CV.2/96-33 dated 27.5.2004 requested the 2nd respondent to conduct enquiry on the social status of the petitioner and his two sons. As a sequel to the same, the 2nd respondent vide Proceedings Rc.No.3408/88/TRI/VC-6 dated 6.9.2006 asked the petitioner to appear before him on 20.9.2006 for furnishing information about the family and relatives of the petitioner and to submit documentary evidence to substantiate his ST status. The said memo dated 27.5.2004 and the consequential letter dated 6.9.2006 are under challenge in the present Writ Petition.

6. It is contended by the learned counsel for the petitioner that pursuant to three enquiries held against the petitioner previously, the respondents herein have arrived at the conclusion that the petitioner belongs to ST Nayakpod community. It is further submitted that the impugned action, proposing to hold enquiry against the petitioner once

again is violative of Articles 14 and 21 of the Constitution of India. In support of his submissions and contentions, the learned counsel places reliance on the judgment in **Government of A.P. and another v. R.K.Ragala and another**^[1].

7. On the contrary, it is vehemently contended by the learned Government Pleader that absolutely there is no bar for holding enquiry afresh against the petitioner and since the authorities are of the opinion that the claim of the petitioner is doubtful, the impugned action has been initiated.

8. In the above backdrop, now the issue that boils down for consideration is “whether the respondent authorities are justified in initiating impugned action and whether the same is in accordance with law or not?”

9. There is absolutely no dispute with regard to the reality that with regard to the caste status of the petitioner, the authorities have conducted enquiries in 1970, 1977 and another enquiry in 1979 and found ultimately that the petitioner belongs to Nayakpod ST community. It is also brought to the notice of this Court that the petitioner herein retired from service in the year 2001 while working as Inspector General of Police.

10. While dealing with the matter in identical situation, this Court in **R.K.Ragala’s** case (supra), at paragraphs 16 and 17 held as under:

“16. In Unni Krishnan v. State of A.P.: [1993]1SCR594 the Constitution Bench of the Supreme Court had this to say dealing with Article 21 of the Constitution.

"Article 21 declares that no person shall be deprived of his life or personal liberty except according to the procedure established by law. It is true that the Article is worded in negative terms but it is now well-settled that Article 21 has both a negative and an affirmative dimension".

The observations of Rajgopala Ayyangar, J. in Kharak Singh case: 1963CriLJ329 (supra) were quoted with approval. It was further observed "from Article 21 has sprung up the whole lot of human rights, jurisprudence, viz., right to legal aid and speedy trial and so on....."

Article [21](#) of the Constitution reads as follows:

"Perfection of life and personal liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law."

Though Article [21](#) is couched in negative language, it is obvious that it confers a fundamental right to life and personal liberty. By a catena of decisions the scope of the words "personal liberty", as used in Article [21](#), is interpreted by the Supreme Court in wide terms. The narrow interpretation placed on the words "personal liberty" in *A. K. Gopalan v. State of Madras*, : 1950CriLJ1383 was departed from in *Menaka Gandhi v. Union of India* : [1978]2SCR621 . It is now clear that from Art. [21](#) had sprung up a whole lot of human rights jurisprudence and it is now well-settled that 'Art. [21](#) has both negative and affirmative dimensions. In this expanding scenario of the scope of Art. [21](#) we have no hesitation in holding that a citizen is entitled to live with dignity and without being harassed by repeated enquiries. This, of course, is subject to the condition that the earlier enquiries were conducted in accordance with law.

17. Having said so, we have to consider whether the earlier enquiries conducted against the first respondent were valid. The Revenue Divisional Officer, Peddapuram, who conducted enquiry in the year 1956 and submitted his report in 1957 holding that the first respondent belongs to a Schedule Tribe, was competent to hold the enquiry. The subsequent enquiry conducted in the year 1988 by the Inspector General of Police, CID, Hyderabad in which also it is held that the first respondent belongs to the community of Konda Kapu, was validly held. The Government Orders relied on by the learned Government Pleader support the view that those enquiries were validly conducted and are legal. There is no suggestion in the impugned proceedings that the earlier enquiries were conducted invalidly. The mere fact that some new evidence is gathered subsequently will not invalidate the earlier enquiries and the finding thereon, which were legally held and which were based on evidence. The first respondent's father was (sic) to be konda kapu and he was born in the year 1889. The birth certificate of the first respondent dated 15-7-37 perused by the Inspector General of Police CID which was taken from the Mandal Revenue Officer, Peddapuram, also revealed that the first respondent is a konda kapu. We are considering these facts not for the purpose of finding out whether the first respondent belongs to the community of konda kapu, but only to test whether the earlier enquiries were based on proper material. It is to be noted that the first respondent is at the fag end of his career and it is not proper to subject him to further harassment by holding repeated enquiries in the face of the reports of the Revenue Divisional Officer and the Inspector General of Police."

11. The case of the petitioner in the instant Writ Petition also stands on the same footing and as rightly pointed out by the learned counsel for petitioner, the impugned enquiry undoubtedly tantamounts to violation of Article 21 of the Constitution of India and cannot be sustained in the eye of law.

12. For the aforesaid reasons, the Writ Petition is allowed. As a sequel, the miscellaneous petitions, if any, stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 10.6.2016

Note:

L.R. copy be marked.

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

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10.6.2016

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[\[1\]](#) AIR 1994 AP 238