

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

WRIT PETITION No.9168 OF 2009

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the proceedings Rc.No.206/2007/L/Dt:10.01.2009, of the Revenue Divisional Officer, Vizianagaram.

2. Heard Sri G.Tuhin Kumar, learned counsel for the petitioners and learned Government Pleader for Social Welfare for the respondents, apart from perusing the material available before the Court.

3. Petitioner No.1 is the father and petitioners 2 to 5 are the sons of the 1st petitioner. According to the petitioners, they belong to 'Jatapu' caste, a listed scheduled tribe. On the directions of the District Collector, Vizianagaram, the Revenue Divisional Officer, Parvathipuram, conducted enquiry into the caste status of the petitioners herein and submitted a report vide Rc.No.206/2007/L/Dt:10.01.2009 and requested the District Collector to refer the issue of caste status of the petitioners herein for necessary enquiry to the District Level Scrutiny Committee. The said proceedings dated 10.01.2009, are under challenge in the present writ petition.

4. According to the learned counsel for the petitioners, the Revenue Divisional Officer, Parvathipuram, without affording any opportunity to the petitioners herein, conducted enquiry unilaterally and submitted a report to the District Collector, as such, further proceedings cannot be permitted under the provisions of the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificate Act, 1993 (herein after, 'the Act'). It is further submitted by the learned counsel for the petitioners that earlier in the years 1991, 1999, 2002 and 2005, the revenue authorities conducted enquiry and confirmed that the petitioners belong to Jatapu caste – a scheduled tribe.

5. On the contrary, it is strenuously contended by the learned Government Pleader that the proceedings initiated by the 1st respondent – District Collector, under the provisions of the Act, cannot be scuttled in the midway and it is always open for the petitioners herein to place the entire material before the District Level Scrutiny Committee and the petitioners cannot interdict the procedure under the Statute. It is further submitted by the learned Government Pleader that the present writ petition is a premature petition and it is open for the petitioner herein to raise all his objections before the District Level Scrutiny Committee, including the objections that have been raised in the present writ petition.

6. This Court, while ordering '*Rule Nisi*' on 30.04.2009, in W.P.M.P.No.12004 of 2009 passed interim order saying that the District Level Scrutiny Committee may go ahead with the enquiry, however, final proceedings may not be issued until further orders.

7. A counter affidavit, deposed by the District Collector, is filed, resisting the writ petition and denying the averments made in the writ petition. It is stated in the said counter affidavit that the relief sought in the writ petition cannot be granted, in view of the procedure contemplated as per the Act with regard to the issuance, cancellation of caste certificate and in view of the mechanism provided under the enactment. It is further stated that as per the directions of the District Collector, the Revenue Divisional Officer, Parvathipuram, conducted enquiry and submitted the report on 10.01.2009. While referring to the contents of the counter affidavit, it is the categorical submission of the learned Government Pleader that if the petitioners are aggrieved by the contents of the report of the Revenue Divisional Officer, it is always open for them to raise the same before the District Level Scrutiny Committee.

8. It is not clear on whose instructions the proceedings dated 30.12.1991 and 07.09.2002 were issued by the Mandal Revenue Officer, Gummalaxmipuram, earlier. The proceedings dated 22.03.2005 pertains only to the

2nd petitioner herein, wherein the Mandal Revenue Officer, Gummalaxmipuram, opined that the 2nd petitioner belongs to Jatapu caste - Scheduled Tribe and that there is no legal hurdle for issuance of caste certificate.

9. Admittedly, the enquiry initiated by the respondent authorities under the provisions of the Act is still pending. This Court finds sufficient force in the submission of the learned Government Pleader that it is open for the petitioners herein to place all the material including the above said proceedings for consideration of the District Level Scrutiny Committee, during the course of enquiry. Since the elaborate procedure is contemplated under the provisions of the Act and the Rules made thereunder, this Court, having regard to the facts and circumstances of the case, is not inclined to scuttle the said enquiry. It is further made clear that the petitioners herein are entitled to place before the District Level Scrutiny Committee all the papers in support of their claim for consideration by the authorities. It is also open for the petitioners to raise all the contentions including the aspect of repeated enquiries before the District Level Scrutiny Committee and the Collector.

10. For the aforesaid reasons, writ petition is disposed of, keeping it open for the respondents herein to strictly proceed in accordance with the provisions of the Act and the Rules and it is open for the petitioners herein to file the entire

material before the District Level Scrutiny Committee and advance all their contentions. It is further made clear that if any such material is placed on record by the petitioners herein before the District Level Scrutiny Committee, the same be considered in accordance with law, after giving notice and opportunity of being heard to the petitioners herein. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

29.12.2016
SS



A.V.SESHA SAI, J