

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.30222 OF 2016

ORDER:

The writ petition is filed seeking a writ of mandamus declaring the impugned order of the second respondent vide Rc.No.1531/2011 C1, dated 31.05.2012 and the consequential Gazette Notification No.1531/2011 C1, dated 31.05.2012 as illegal, arbitrary and contrary to the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificate Act and Rules, and consequently, to set aside the same by holding that the Scheduled Tribe Caste Certificate (Jatapu) issued to the petitioner on 12.10.2009, S.No.396/2009 is genuine as per law of the land and direct the respondents to issue posting orders to the petitioner to the post of Secondary Grade Teacher (Telugu) with all consequential benefits.

The petitioner is the son of a couple, of which father belongs to forward community and mother belongs to scheduled tribe. Admittedly, there is no marriage between them. The petitioner applied for the post of Secondary Grade Teacher and that he was selected, but the selection of the petitioner was kept in abeyance upon a complaint made by other selected candidates. The petitioner submitted caste certificate 'Scheduled Tribe (Jatapu)' and that the same was referred to the second respondent for verification and to decide the legal position to grant community certificate following the caste of the mother, more particularly, when there is no legal marriage between the parents of the petitioner. The second respondent vide Rc.No.1531/2011 C1, dated 31.05.2012, cancelled the Scheduled Tribe Certificate submitted by the petitioner on the ground that the petitioner fraudulently obtained the same. Aggrieved by the same, the petitioner preferred an appeal being C.M.A.No.20 of 2012, before the Court of the Judge, Family Court-cum-III Additional District and Sessions Judge at Srikakulam. The learned Sessions Judge, by order, dated 30.06.2016,

allowed the appeal and set aside the orders of the second respondent, dated 31.05.2012 and held that the caste certificate issued to the petitioner that he belongs to Scheduled Tribe (Jathapu) is genuine. Thereafter, the petitioner approached the second respondent and that the second respondent stated that the Order passed by the learned Sessions Judge is without jurisdiction and that the appeal lies only to the Government.

Heard and perused the material.

The grievance of the petitioner is that the petitioner approached the learned Sessions Judge, as per the directions of the second respondent and that now the second respondent has not accepted the Judgment of the learned Sessions Judge on the ground that the said Court has no jurisdiction. His further grievance is that now the delay has occurred to approach the competent Authority seeking appropriate relief and that the said delay occurred as the petitioner has approached the concerned District and Sessions Court as per the order of the second respondent.

This Court is of the view that the delay in filing the appeal before the competent authority caused because of the direction of the second respondent that the petitioner can approach the District and Sessions Judge, and accordingly the petitioner approached the said Court seeking relief in 2012 itself. Hence, the petitioner approached this Court seeking a direction to the competent authority to consider his appeal arising out of order passed by the second respondent dated 31.05.2012 and also a direction to condone the delay in filing the appeal before the competent Authority.

Considering the facts and circumstances of the case, the petitioner is directed to prefer an appeal before the competent authority concerned and that the competent authority is directed to consider his appeal by condoning the delay in filing the said appeal and dispose of the said appeal as expeditiously as possible, preferably within a period of three months, from the date of filing of the appeal by the petitioner.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

21.10.2016
pln

JUSTICE RAJA ELANGO

