

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 2014 of 2009

Order:

Heard learned counsel for the petitioner and none appeared for the respondents.

The first respondent took time for filing counter on 05.01.2017 and he did not file any counter nor appeared today. In spite of service of notice, the second respondent did not appear.

The case of the petitioner is that she belongs to Dudekula Muslim community which comes under BC-B category. She is a resident of Gali Bhimavaram village and pursuant to a notification published on 29.11.2007 she applied to the post of Village Resource Person/Field Assistant under NREGS, Sabbavaram, on 12.12.2007. She was selected for the said post and was sent for training also. When she was expecting the orders of appointment, she came to know that the second respondent was appointed. Challenging the appointment of the second respondent, she filed an appeal before the first respondent on 10.03.2008. When the said appeal was not disposed of by the first respondent, she filed Writ Petition No.6842 of 2008 and the said writ petition was disposed of by this Court on 31.03.2008 directing the first respondent to pass appropriate orders on the appeal preferred by the petitioner within a period of four weeks. Even after receipt of the said order, the first respondent did not pass orders and in those circumstances the petitioner filed Contempt Case No.685 of 2008 and, on receipt of a notice in the said Contempt Case, the first respondent passed an order on 28.07.2008 upholding the selection procedure adopted by the selection committee, but instructed the Revenue Divisional Officer to enquire on the social status of the second

respondent and directed him to continue the second respondent till her social status was determined. The Revenue Divisional Officer, Visakhapatnam further entrusted the enquiry to the Tahsildar, Sabbavaram, who conducted the enquiry and submitted his report on 03.11.2008 stating that the parents of the second respondent belong to 'Kapu' community, she married a man belonging to 'Kapu' community and in the social survey conducted also it was recorded that she belongs to 'Kapu' community, however in the Matriculation Certificate it was recorded as 'Turupu Kapu', but the local enquiries and the overwhelming evidence disclosed that the second respondent belonged to 'Kapu' community. In spite of such submission of report by the Tahsildar, no action was taken by the first respondent. In those circumstances, the present Writ Petition was filed challenging the continuance of the second respondent by proceedings of the first respondent dated 28.07.2008.

A reading of the proceedings of the first respondent discloses that though he upheld the selection procedure adopted by the selection committee, he directed continuance of the services of the second respondent till the social status of the second respondent is verified. Now the social status of the second respondent is verified by the Tahsildar, Sabbavaram and he submitted a report categorically stating that the second respondent belongs to 'Kapu' community which is not included as a Backward Class.

In the circumstances, the Mandal Parishad Development Officer, Mandal Praja Parishad, Sabbavaram, Visakhapatnam district should have taken appropriate steps for cancelling the appointment of the second respondent pursuant to the order of the first respondent passed on 28.07.2008. Since no action is taken on the report submitted by the

Tahsildar, Sabbavaram dated 03.11.2008, the Mandal Parishad Development Officer, Mandal Praja Parishad, Sabbavaram, Visakhapatnam district is directed to take further steps, pursuant to the report submitted by the Tahsildar, Sabbavaram on 03.11.2008 on the social status of the second respondent, pursuant to the orders passed by the first respondent dated 28.07.2008, within a period of two (2) months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed to the extent indicated above. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

Date: 21.06.2017
Nsr

A. RAMALINGESWARA RAO, J

