

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No. 29211 OF 2017

DATED 30TH AUGUST, 2017

Between:

The Senior Divisional Operating Manager (Sr. DOM),
South Central Railway, Vijayawada Division,
Vijayawada, and others

... Petitioners

AND

G.Taviti Naidu and another

... Respondents

Counsel for the petitioners

:

Smt. K.Aruna

Counsel for respondent No. 1

:

Counsel for respondent No. 2

:

G.P. for Revenue (A.P.)

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Writ Petition is filed against order dated 24-01-2017 in O.A.No. 020/01296/2014 on the file of the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short, 'the Tribunal').

2. We have heard Smt. K.Aruna, learned standing counsel for the petitioners, and perused the record.

3. Respondent No. 1 was appointed as Goods Guard in South Central Railway, Secunderabad. Petitioner No. 1 has issued show cause notice dated 10-07-2014, wherein it is stated that the District Collector, Srikakulam, *vide* his letter dated 22-01-2014 informed that as per the verification made by the Revenue Divisional Officer, Srikakulam, respondent No. 1 belonged to "Vaddi" community but not "Bentho Oriya" (ST) community and that by producing a false community certificate as belonging to Bentho Oriya community, he has secured employment in railways. Respondent No. 1 has submitted his explanation, wherein he has explained that though he belongs to Bentho Oriya community, the said community is locally called as Vaddi community. By order dated 01-09-2014, petitioner No. 1 has dismissed respondent No. 1. The said order was questioned in O.A.No. 1140 of 2014 before the Tribunal which disposed of the same by its order dated 29-09-2014 directing respondent No.1 to file an appeal against the dismissal order. Accordingly, respondent No. 1 filed an appeal which was dismissed by the appellate authority by order dated 16-10-2014. Feeling aggrieved by the said order, respondent No. 1 has filed the aforementioned O.A. After considering rival pleadings and hearing both sides, the Tribunal has allowed the O.A. The Tribunal in its order made the following observations:

"15. It is trite that once a caste certificate was issued validly by a competent authority, the same shall be in force, till the same is cancelled, after following due procedure and by the competent authority, in terms of the provisions of the Andhra Pradesh (S.C., S.T. & B.C.) Regulation of Issue of Community Certificates Act, 1993, and the Rules made thereunder.

19. Further, the various proceedings of the Revenue Authorities also prima-facie indicate that no procedure required to be followed under the 1993 Act, was followed, before declaring that the applicant does not belong to 'Bentho-Oriya' (ST) Community. However, as the action of the Revenue authorities is not in question before us, there is no necessity for us to go into the same."

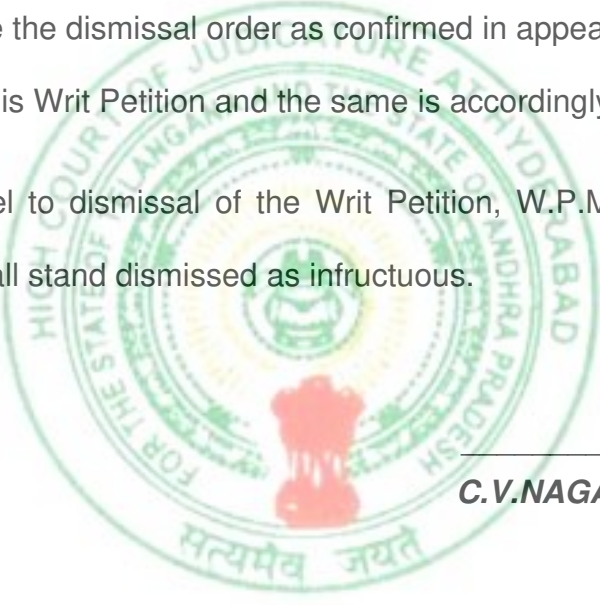
4. As rightly held by the Tribunal, once a community certificate is issued by competent authority, it continues to remain in force till the same is cancelled by following the procedure under the Andhra Pradesh (S.C., S.T. & B.C.) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act'), and the rules made thereunder. As per this procedure, the committee, constituted under the Act and the rules, has to hold an inquiry and submit its report to District Collector who, after giving notice to the person concerned, has to pass a final order either canceling the certificate or upholding the same. That this procedure is not followed is evident from para No. 1 of the order dismissing respondent No.1 which reads as under:

"1. A discreet enquiry has been conducted by the District Collector, Srikakulam by nominating the Revenue Division Officer, Srikakulam in which the Tahasildar, Gram Panchayath Secretary and Mandal Revenue Officer confirmed that the father of the charged employee belongs to "Vaddi", BC-A caste but not "Bentho Oriya" i.e., ST caste as the same was confirmed through School Certificates and records of Mandal Office from 1936 to 1972. It is

also confirmed by the District Collector, Srikakulam vide his letter No. RC.No. 2702/2013 C1 dt. 22.01.14 that Sri G.Taviti Naidu, Goods guard/RJY belongs to Vaddi caste only but not Benth Oriya caste. Thus it proves that the CE has acquired employment in Railways by fraudulent means submitting a bogus caste certificate."

5. As the revenue authorities have admittedly not followed the procedure prescribed under the Act and the community certificate obtained by respondent No. 1 was held to be bogus only based on the discrete inquiry and not on a full-fledged inquiry contemplated under the Act, the Tribunal has rightly allowed the O.A. and set aside the dismissal order as confirmed in appeal. Hence, we do not find any merit in this Writ Petition and the same is accordingly dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.Nos. 36350 and 36351 of 2017 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 30-08-2017.

JSK