

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.3166 of 2008

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, seeking the following relief:-

“to issue a Rule Nisi calling for the records leading upto and inclusive of G.O.Ms.No.07, Social Welfare (CV.2) Department dated 22.01.2008 dismissing the Appeal petition filed by the petitioner under Rule 11 of Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) issue of Community, Nativity and Date of Birth Certificates Rules of 1977 and confirming the proceedings of the 2nd respondent in D.Dis.C6/1507/M/99, dt.9.8.2006 and Quash the same by issuing a Writ, order or direction in the nature of Certiorari as the said orders are violative of Articles 14 and 21 of the Constitution of India and the Principles of natural justice...”

2. Be it noted that pending the writ petition, the sole writ petitioner died and her legal representative is brought on record as 2nd petitioner.

3. I have heard the submissions of Sri K. Ram Reddy, learned counsel for the 2nd writ petitioner and the learned Government Pleader for Social Welfare. I have perused the material record.

4. The question that falls for determination is – ‘whether a person like the deceased petitioner belonging to Valmiki or Nayak caste of Scheduled Tribe Community of Karnataka State can also be considered as a Scheduled Tribe in the State of Andhra Pradesh?’

5. The facts necessary for consideration, in brief, are as follows:

The 1st writ petitioner (since died) was born in Peekalabetta village of Adoni of Kurnool District in the State of Andhra Pradesh. She studied and passed her SSLC in Kosgi High School within the State of Andhra Pradesh. The Headmaster of Kosgi High School issued Secondary School Leaving Certificate on 05.11.1968 stating that her date of birth is

06.09.1952 and that she belongs to Hindu Valmiki Caste, which is a Scheduled Tribe. The Tahasildar, Adoni, issued a Caste Community Certificate to her. She and her family members migrated to the State of Karnataka. She appeared for the examinations conducted by the Andhra Pradesh Public Service Commission. After her selection, she was provisionally appointed as Extension Officer (Women and Child Welfare). Her appointment was later regularised. The Andhra Pradesh Public Service Commission on being fully satisfied about the genuineness and authenticity of her certificates including the Caste and Community certificate made her appointment permanent and she was promoted from time to time. As on the date of the subject dispute, she was working as a Child Development Project Officer, ICDS Project, Adoni Rural, Kurnool District. While so, a complaint was received stating that she wrongly claimed that she belongs to Scheduled Tribe and even secured promotions by wrongly stating her caste status and community. Later, an enquiry was conducted by District Level Scrutiny Committee after calling for her explanation by serving a show cause notice and a report was submitted stating that the claim of the deceased petitioner regarding her caste and community are not correct and that she does not belong to any Scheduled Tribe in the State of Andhra Pradesh. Therefore, the deceased 1st petitioner preferred an appeal, dated 26.09.2006, before the Government against the proceedings dated 09.08.2006 issued by the District Collector, Kurnool, for cancellation of her Scheduled Tribe Valmiki Caste Certificate. On that the Government directed the Collector, Kurnool, to furnish his para-wise remarks along with the connected records. On considering the facts and circumstances and the material record, the Government rejected the appeal of the deceased 1st petitioner upholding the afore-stated proceedings of the

District Collector, Kurnool. Therefore, the aggrieved petitioner was before this Court.

6. Sri K. Ram Reddy, learned counsel, submits that the deceased 1st petitioner belongs to Valmiki Caste, which is recognised as a Scheduled Tribe under the Scheduled Castes and Scheduled Tribes List (Modification) Order, 1956, read with Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1956, and that she is having a caste certificate, dated 12.04.1979, issued by the Tahasildar, Adoni, and that basing on that certificate only she had applied for the post and that on consideration of all relevant certificates she was selected by the A.P.P.S.C and was provisionally appointed as Extension Officer (Women and Child Welfare) and that later her services were regularised and that her appointment was made permanent and that later she was promoted from time to time to higher posts and that at the time of the dispute, she was working as Child Development Project Officer, ICDS Project, Adoni Rural, Kurnool District, and that at that time some disgruntled persons lodged a false report against her stating that she had wrongly claimed the status of a Scheduled Tribe person and got appointment and also promotions under the said reserved category and that an enquiry was unnecessarily conducted and that in the enquiry without considering her explanation to the show cause notice and without properly considering her documents and the provisions of the Order of 1956 and of the Act of 1956 a wrong conclusion was arrived at that she is not entitled to claim that she belongs to Scheduled Tribe in the State of Andhra Pradesh and that, therefore, she preferred an appeal and that the said appeal was also dismissed by the Government erroneously after considering whatever the District Collector has stated and that even the

review petition was mechanically dismissed and that an earlier writ petition in W.P.No.23049 of 2006 filed by the writ petitioner was allowed and that the matter was remanded to the 1st respondent by order dated 08.11.2006 and that after such remand also, the facts of her case were not properly considered; and that the petition which ignited the whole issue is an anonymous and frivolous petition and that she was appointed in service on 31.03.1982 and that later her appointment was made permanent and that she worked for several long years in the department and was even promoted and that, therefore, the question of again conducting an enquiry regarding her caste and community does not at all arise for consideration and that the enquiry initiated at a time when she was almost at the fag end of her service is not proper and that it is unjust to subject her to harassment by holding an enquiry and that the impugned proceedings of the Government dismissing the appeal petition are invalid and that the cancellation orders cancelling her Valmiki Scheduled Tribe Community Certificate are illegal and unsustainable.

7. Learned Government pleader reiterated the facts and the legal position stated in the orders of the Government and the District Collector. He further submitted that when a person wrongly claims that she is a Scheduled Tribe person and obtains a false community certificate and illegally enjoys or derives the benefits of the reservation policy enshrined in the Indian Constitution with avowed objectives, she would be depriving a genuine person of the benefits and that any such person who made wrong claim or his/ her legal heirs shall not be allowed to reap the benefits any longer once the certificate granted to her is found to be false and that in the case on hand there is no repeated

subjection of the petitioner to multiple enquiries and that when a complaint made by the Scheduled Tribe Welfare Association, Adoni, with verifiable information was received, an enquiry as required under law was made and that it was found on due enquiry that the deceased petitioner made a wrong claim and that the community certificate obtained by her is false and hence, the same was rightly cancelled. He would also submit that the material record reflects without doubt that the deceased 1st petitioner not being a person belonging to Scheduled Tribe in the State of Andhra Pradesh could not have secured employment against a post reserved for such Tribe and therefore the benefits secured or derived on the basis of such illegally secured employment have to be withdrawn forthwith. He thus supported the orders impugned in the writ petition and prayed for dismissal of the writ petition.

8. I have carefully gone through the record including the counter affidavit filed by the 2nd respondent wherein it is stated as under: "The petitioner (since died), is a Scheduled Tribe in the State of Karnataka; she does not lose her Scheduled Tribe status in the State of Karnataka after migration to the State of Andhra Pradesh; she is only entitled to concession and benefits admissible to the Scheduled Castes and Scheduled Tribes from the State of origin but not from the State of Andhra Pradesh as she cannot be considered as a person of Scheduled Tribe in the State of Andhra Pradesh.

9. On careful consideration of the submissions and the content of the material record, the following facts emerge for consideration:

Originally the parents of the petitioner lived in Adoni Rural of Kurnool District. They migrated to Manvi village and Taluq of Raichur

District of Karnataka State. In view of the said fact, when a representation was called from the Tahasildar, Manvi village, he stated in his report, dated 12.03.2004, that the deceased 1st petitioner belongs to Nayak Caste, which is recognised as a Scheduled Tribe in the State of Karnataka, and that her educational record shows that she studied in the Zilla Parishad High School, Kosigi, and that in that educational record her caste has been recorded as Valmiki Scheduled Tribe. Further, on further enquiries, the Revenue Divisional Officer, Adoni, has also stated that Nayak Caste in the State of Andhra Pradesh and Karnataka State are one and the same. It is an admitted fact that during an enquiry, on 09.12.2005, before the District Level Scrutiny Committee, the deceased 1st petitioner stated that her ancestors migrated from the State of Karnataka to Kurnool District about 60 years back and that her grand parents belong to Manvi Taluq of Raichur District of Karnataka State and that her relatives belong to Valmiki Caste and that she studied in Kosigi village and Mandal of Kurnool District, and that in her educational records her caste was noted as Valmiki Scheduled Tribe and that she married a Muslim person in the year 1978 and got her appointment under the Scheduled Tribe reserved category.

10. What is to be next noted is that a clarification was sought from the Commissioner of Tribal Welfare, Hyderabad. The said authority in the letter, dated 06.08.1984, clarified that Nayaks and Valmikis of Agency Tracts are only Scheduled Tribes in the State of Andhra Pradesh and that on migration from the State of origin to another State, the migrated person will not lose his/her status as Scheduled Caste or Scheduled Tribe person but such person will be entitled to concessions and benefits admissible from the State of his/ her origin and not from the

State to which he or she has migrated. Admittedly, the deceased 1st petitioner whose State of origin is the State of Karnataka lived and studied at Adoni Rural of Kurnool District but not in any of the Agency Tracts of the State of Andhra Pradesh. Therefore, though she was entitled to continue to claim the status of a Scheduled Tribe and also the concessions and benefits admissible to her from the State of her origin, the State of Karnataka, she was however, not entitled to claim such status, concession and benefits from the State of Andhra Pradesh as in the State of Andhra Pradesh Nayaks and Valmikis of Agency Tracts can only be Scheduled Tribes but not the others from the other areas.

11. Though it is sought to be contended on behalf of the 2nd petitioner that a caste/ community certificate can only be cancelled when the same was obtained by playing fraud and that in the case on hand the deceased petitioner's caste and community certificate was not obtained by playing fraud or indulging in fraudulent acts, the said contention cannot be countenanced as obtaining a caste-cum-community certificate by either concealment & misrepresentation of true facts or by making a wrong claim is by itself sufficient to cancel the certificate, which is false. As per the regulations, whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, or Backward classes secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other company or corporation, owned or controlled by the Government or in any Government aided institution or co-operative society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be

liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith. In the present case of the deceased petitioner, since the question of discharge of the deceased petitioner from employment does not arise, the benefits secured or derived on the basis of such false community certificate have to be withdrawn as a sequel to the cancellation of her false certificate.

12. Before parting, it is to be noted that the learned counsel for the 2nd petitioner relied upon a decision in Government of A.P v. R.K.Ragala¹ wherein social status certificate of the respondent therein was sought to be cancelled by the Government by issuing show cause notice. The facts of the case disclose that the respondent therein was subjected to repeated enquiries for the purpose of finding out whether he belongs to community of Konda Kapu; and, in the ultimate enquiry, the Government wanted to test whether the earlier enquires were based on proper material. In the said facts and circumstances, a Division Bench of this Court noted that the 1st respondent is at the fag end of his career and held 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 and accordingly confirmed the order of the learned Single Judge of this Court whereby the proceedings impugned in the writ petition were quashed. In the case on hand, the deceased 1st petitioner was not subjected to any repeated enquiries and only on a first complaint an enquiry was made

¹ AIR 1994 AP 238

and the orders impugned in the writ petition were eventually passed.

Hence, the decision is not helpful to the writ petitioner.

13. Viewed thus, this Court finds that there is no merit in the writ petition and the writ petition is liable to be dismissed.

14. In the result, the Writ Petition is dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

There shall be no order as to costs.

24-01-2017
VJI



M. SEETHARAMA MURTI, J