HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.22937 of 2008

ORDER:

The case of the petitioner is that he lodged a complaint before the 2nd respondent against the 3rd respondent for cancellation of caste certificate issued to the 3rd respondent without giving opportunity of hearing under the provisions of A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act") impugned order in this writ petition is passed. The 3rd respondent contested election as Mayor of Rajahmundry Municipal Corporation in the year 2002 and he filed OP.No.420 of 2002 on the file of District And Sessions Judge's Court, East Godavari, Rajahmundry and in his deposition as PW.1, he admitted that he belongs to Adi Andhra Christian and also admitted that his father and grand father belong to Christianity. Even in the counter filed before the Joint Collector in the complaint filed by the petitioner, the 3rd respondent admitted that he is Christian by birth and his parents, paternal uncle and maternal aunt of the 3rd respondent belong to Christianity and school certificate dated 01-09-2003 issued by Head Master, Danavaripeta Municipal Corporation High School, Rajahmundry shows that 3rd respondent belongs to Indian Christian. The Principal, Government College (A), Rajahmundry issued a certificate stating that 3rd respondent

was sanctioned scholarship from Social Welfare Department under "Adi Andhra Christian" from 1979-80 to 1981-82. Inspite of voluminous record showing that the 3rd respondent belongs to Adi Andhra Christian, the 2nd respondent passed the impugned order declaring him as Mala Community which comes under Scheduled Caste. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the 2nd respondent stating that on receipt of complaint from the petitioner and two others, the matter got enquired in detail and got reports from the Mandal Revenue Officer, Kothapet, Sub-Collector, Rajahmundry and Revenue Divisional Officer, Amalapuram and the same was referred to District Level Scrutiny Committee for its finding as per the provisions of the Act and a notice was issued in Form-VI to the individual and to the petitioner to appear before the District Level Scrutiny Committee (DLSC) on 15-09-2003. The petitioner and M.S.Chakravarthy attended and reiterated the contents in the petition and requested to conduct detailed enquiry. Subsequent notice was also issued to both parties to attend before Enquiry committee on 25-09-2003, 29-11-2003, 24-12-2003, 24-01-2004, 23-02-2004, 12-03-2004, 22-03-2004, 05-06-2004. Inspite of the said notices, the petitioner did not attend the proceedings. However, the District Level Scrutiny Committee after

following the procedure submitted its findings to the District Collector. Basing on the findings, on examination of all the reports of enquiry officers and documents filed, the 2nd respondent passed the impugned order. It is stated that the 3rd respondent reconverted into Hinduism by taking holy dip and Andhra Suddi Sangham, Guntur has issued a certificate to that affect and the community elders also accepted the same. That the 3rd respondent's marriage was performed and registered under Hindu Marriage Act.

Counter also filed by the 3rd respondent stating that after conducting elaborate enquiry under the provisions of the Act and Rules made thereunder, social status of the 3rd respondent was confirmed. That the petitioner has alternate remedy to file review under Rule 11 of A.P.(S.C. ST & BCs) Regulation of Issue of Community Certificates Rules,1997 (for short "Rules, 1997") and without availing the said provision the present writ petition is filed. As such, the same is liable to be dismissed.

Learned counsel for the petitioner by referring to the report submitted by Sub-Collector, Rajahmundry dated 26-05-2003 submits that the 3rd respondent has not produced any evidence regarding his re-conversion as 'Mala' from 'Adhi Andhra Christian' and that was not considered neither by Scrutiny Committee nor by the District Collector.

He also submitted that the 3rd respondent as PW.1 in his cross-examination in OP.No.420 of 2002 filed by him clearly admitted that the father of the petitioner and grandfather was converted into Christianity. It is submitted that Transfer Certificate of mother of the petitioner also shows as Indian Christian Adhi Andhra. Similarly educational records of the 3rd respondent also show that he belongs to 'Adhi Andhra Christian' and uncle of the 3rd respondent also shown as 'Adhi Andhra Christian'. He also submitted that as per rule 9(2) of Rules framed under the Act the Scrutiny Committee shall follow procedure as envisaged under Rule 8(d), (1) to (7). In the present case, the Scrutiny Committee has not given reasonable opportunity to the petitioner to produce evidence in support of his claim. As such the basis for proving social status of 3rd respondent before Scrutiny Committee cannot be relied upon. He also submits that the statements of mediators is at the instance of the 3rd respondent and the same is not consistent with the statement made by 3rd respondent himself in the OP, wherein he has admitted that the father of petitioner and grandfather converted into Christianity, whereas the mediators deposed otherwise. The petitioner has not been given sufficient opportunity and as such, the matter has to be remanded back for reconsideration after giving notice to the petitioner.

On the other hand, the learned Assistant Government Pleader for Social Welfare submits that the petitioner has alternate remedy but he has not availed the same. He also submits that as per the procedure envisaged under the Act and rules made thereunder, the impugned order has been passed after conducting thorough enquiry. As such, no interference is called for in this matter.

Rule 8(6) of Rules, 1997 reads as under:

> "The Scrutiny Committee should give reasonable opportunity to the applicant to produce evidence in support of their claim. A public notice by the beat of drum or any other convenient mode, may be published in the village or locality of the applicant and if any person or association opposes such a claim, opportunity to produce evidence in person before the Committee may be given to him or her. After giving such an opportunity to that person, the Committee may make such enquiry as it deems expedient and finalize its recommendations, with brief reasons in support thereof, to the Competent Authority."

Rule 9(2) of Rules, 1997 reads as under:

> "The Scrutiny Committee on receipt of such cases referred to it by the District Collector, shall follow the procedure as listed in Rule 8(d), (1) to (7) except that it shall serve the notice in Form VI on the person involved in the case."

On reading of above provisions goes to show that notice is envisaged under Rule 8(6) and Rule 9(2) provides procedure laid down in Rule 8(d) has to be followed and

Rule 8(6) provides giving reasonable opportunity for the applicant to produce evidence in support of his claim. In support of his case, the petitioner has not averred in the writ affidavit that non-compliance of Rule 8(6) and more so, in the counter affidavit filed by the 2nd respondent in paragraph No.3, it is clearly stated that petitioner was issued notice to appear before the District Level Scrutiny Committee on 15-09-2003 along with other complainant appeared and they reiterated the same contents and filed statement before the District Level Scrutiny Committee that he has already narrated and requested to conduct detailed enquiry into the complaint. Subsequently notices were issued to both parties on several dates i.e. on 25-09-2003, 29-11-2003, 24-12-2003, 24-01-2004, 23-02-2004, 12-03-2004, 22-03-2004, 05-06-2004 and it is stated that inspite of said notices the petitioner has not attended the proceedings and Scrutiny Committee after following the procedure forwarded report to the Collector. No reply affidavit is filed contradicting assertions in the counter of 2nd respondent.

A perusal of the record shows that notice was also issued to the petitioner. In view of the same, the contention of learned counsel for the petitioner that Rule 8(6) is not followed cannot be accepted and other aspects are concerned, there is categorical finding by the Scrutiny

Committee. The 2nd respondent has clearly stated in page No.17 referred as to the deposition of one Rev.G.Vara Prasad, Pastor who stated that he is running a Church by name "Luthern Church, Kothapeta Parish". The people of surrounding villages will come to his Church every day to perform prayers. But Sri G.V.Harshakumar, S/o.Prakash David Rajkumar never come to their church with a religious view. It is also stated in the impugned order at page No.17 that the Revenue Divisional officer reported that the forefathers of Harshakumar belong to Scheduled Caste (Mala) and later his father converted into Christianity. Subsequently, Sri Harshakumar due to lack of interest he himself converted into Hinduism through Andhra Suddhi Sangham, Guntur in the year 1982. As seen from the marriage certificate dated 16-06-87 the marriage was registered under Hindu Marriage Act, the religion and caste of Sri G.V.Harshakumar was noted as "Hindu Mala". He filed a copy of permanent caste certificate No.337979, dated 27-03-2000 issued by Mandal Revenue Officer, Rajahmundry (urban) as he belongs to Mala.

At page No.18 in the impugned order, it is stated that Geddam Vijaya Harshakumar has deposed that his grand parents were resided in Gogivaripeta H/o.Kothapeta as they worked as Teachers at Kothapeta and belong to Hindu Adi Andhra Mala Caste and they used to spend their lives

mingling with S.C.(Mala) people duly following the customs and tradition of Hindus. Later his father came to Rajahmundry due to his employment and took Christianity. He stated that while he was studying, he converted himself into Hinduism in the year 1982 through Andhra Suddhi Sangham, Guntur on 17-08-1982 due to lack of interest in Christianity. During his study in Andhra University from 1982-84, he received S.C. scholarship and since then he is being continuing as Hindu.

It is also stated in the impugned order that as per circular instructions of Government of India vide Circular No.35/1/72-R.U. (SCT.V) Bharat Sarcar, Ministry of Home Affairs/Grih Manthralaya the cases of conversion and reconversion of caste has to be decided as follows:

> " 4) (i) where a Scheduled Caste person gets converted a religion other than Hindusim or Sikhism and then reconverts himself back to Hinduism or Sikhism, he will be deemed to have reverted to his original Scheduled Caste, if he is accepted by the members of that particular caste as one among them.
>
> (ii) In the case of descendant of a Scheduled Caste convert, the mere fact of conversion to Hinduism or Sikhism will not be sufficient to entitle him to be regarded as a member of the Scheduled Caste to which forefathers belonged. It will have to be established that such a convert that has been accepted by the members of the caste claimed as one among themselves and has thus become a member of that case."

In the impugned order while relying on the statement of the 3rd respondent and report of District Level Scrutiny Committee came to conclusion that the 3rd respondent reconverted into Hinduism by taking holy dip and community accepted him as S.C. Mala and community leaders filed affidavit to that affect.

Basing on the findings of the Scrutiny Officer and other records, 2nd respondent confirmed the social status of the 3rd respondent as "Mala" community which comes under scheduled caste.

It is well settled law that judicial review of the administrative action/quasi judicial orders passed by the Government is limited only to correcting the errors of law or fundamental procedural requirements which may lead to manifest injustice. When the conclusions of the authority are based on evidence, the same cannot be re-appreciated by the court in exercise of its powers of judicial review. The court does not exercise the powers of an appellate court in exercise of its powers of judicial review. It is only in cases where either findings recorded by the administrative/quasi judicial authority are based on no evidence or are so perverse that no reasonable person would have reached such a conclusion on the basis of the material available that the court would be justified to interfere in the decision. The

scope of judicial review is limited to the decision making process and not to the decision itself, even if the same appears to be erroneous, in **Kalinga Mining Corporation v. Union of India**[1]**.**

In view of the law laid down in the decision referred supra and above facts and circumstances, this Court is not inclined to interfere with the findings of fact arrived at by the competent authority by re-appreciating the evidence by exercising the power of judicial review under Article 226 of Constitution of India.

Accordingly, this writ petition is dismissed. As a sequel to the disposal of this writ petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

08-06-2017
Nvl

[1] 2013(5) SCC 252

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

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