

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.13163 of 2008

ORDER:

This writ petition is filed challenging the G.O.Ms.No.107, dated 09-06-2008 rejecting the appeal filed by the petitioner, upholding the orders of the 2nd respondent dated 20-04-2006, wherein caste certificate of the petitioner was cancelled.

The case of the petitioner is that his father migrated from Tamilnadu to Andhra Pradesh i.e. during the time of Composite Madras State and they belong to 'Naickar' caste and as his father was an illiterate, during the time of his admission in the school, the school authorities have wrongly noted down his caste as 'Nayaka' instead of 'Naickar'. Basing on the school certificates, the father of the petitioner got registered his name in the Employment Exchange and subsequently, he secured employment in the 3rd respondent printing press through employment exchange under ST category. The petitioner has been discharging his duties to the utmost satisfaction of the concerned and completed 28 years of service. He never committed any fraud or misrepresentation. That he never submitted any false or fabricated documents at the time of enrolment of his

name in the employment exchange. Basing on the representation of the persons, who are inimical towards the petitioner, the 2nd respondent issued show-cause notice to him on 29-11-2005 alleging that he obtained ST certificate fraudulently. He never obtained ST certificate fraudulently. The 2nd respondent without conducting any enquiry issued proceedings dated 20-04-2006. Aggrieved by the same, the petitioner filed appeal before the 1st respondent and the 1st respondent without serving any notice and without opportunity to put forth his contentions, issued G.O.Ms.No.107 rejecting the appeal of the petitioner. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent stating that the matter was got enquired by the District Level Scrutiny Committee under the Chairmanship of the Joint Collector, Kurnool and the Committee enquired the individual on 13-02-2004 and he made statement before the Committee that he belongs to 'Naicker' Caste and that his father and mother were illiterates and at the time of his admission, the school authorities instead of mentioning his caste as 'Naickar' wrongly mentioned as 'Nayakar', and reiterated the averments in the writ affidavit. The petitioner himself admitted that he belongs

to 'Naicker' community and his father and mother were illiterate and at the time of admission, the school authorities wrongly mentioned his caste as 'Nayaka' and his caste 'Naicker' is recognized as B.C. in Tamilnadu. It is also stated that as per SC/ST (Amendment) order, 1956, the SC & ST lists (Modification) Order, 1956 and SC & ST Orders (Amendment) Act, 1976, 'Naicker' is not recognized as ST in Andhra Pradesh. Even if 'Nayakas' are treated as STs, it is only in the Agency Track Areas of Andhra Pradesh. After perusing the entire material on record, the Committee recommended for cancellation of the ST caste certificate and accordingly, the District Collector issued proceedings dated 20-04-2006 cancelling the caste certificate of the petitioner. The appointment was also given only after production of caste certificates issued by Tahsildar. It is also stated that the petitioner was given personal hearing by District Level Scrutiny Committee, Kurnool for personal hearing on 13-02-2004. The Government in the said G.O. pointed that though an opportunity of personal hearing was given to the petitioner on 31-08-2007, 17-09-2007 and finally on 27-03-2008 both the appellant and his counsel were absent. After due enquiry and

hearing, the Government confirmed the same and sought for dismissal of writ petition.

Learned counsel for the petitioner submits that the petitioner has not fraudulently obtained caste certificate and he has not been given opportunity and he was not furnished copies of enquiry reports of Sub-Collector and M.R.O. and statements recorded, basing on which the 2nd respondent passed proceedings dated 28-04-2016. As such, the orders passed by the 2nd respondent and issuing of G.O.Ms.No.107, dated 09-06-2008 confirming the said proceedings, are in violation of principles of natural justice. He also submits that basing on school records, the authorities issued certificate.

Learned Assistant Government Pleader for Social Welfare submits that the petitioner himself made statement before the Scrutiny Committee and also in his explanation admitted that he belongs to 'Naicker' community which comes under B.C. community in the State of Tamil Naidu. Even if 'Nayakas' are treated as STs it is only in the Agency Track Areas of Andhra Pradesh. Once, the petitioner himself admitted that he does not belong to 'Nayaka' community, it does not make any difference, whether any report is served on the petitioner or not.

In this case, it is to be seen that even in the writ affidavit, it is stated that the petitioner belongs to 'Naicker' community and he is not aware the same was noted down as 'Nayaka' in educational records. Basing on the same, the authorities issued certificate. But he has not obtained certificate fraudulently. As such the impugned order is liable to be set aside.

Learned counsel for the petitioner also relied on the orders of this Court in WP.Nos 10479 of 2006 and 10478 of 2006 and also relied on the judgment of **Duda Ramesh v. State of A.P. represented by its Secretary to Government, Social Welfare Department**¹. Once the petitioner himself admitted that he belongs to 'Naicker' community, non-furnishing of reports does not make any difference. The judgments cited by learned counsel for the petitioner are not rendered in similar fact situation. In the present, wherein the petitioner clearly admitted in the statement before the Scrutiny Committee and also in his explanation to the show-cause notice that he belongs to 'Naicker' community. Said record was also produced and found that the petitioner admitted the same in his explanation and gave his statement before the scrutiny committee and even the appellate authority also

¹ 2005(2) ALT 773

confirmed the orders of original authority by referring the admissions made by the petitioner.

In view of the same, I do not see any reason to interfere with the orders passed by the appellate authority confirming the orders of the original authority.

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

24-07-2017
Nvl



A.RAJASHEKER REDDY,J



