

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.29242 OF 2017

ORDER:

The writ petition is filed questioning the order dated 28.07.2017, passed by the 2nd respondent in Memo No.2803/LTR-2/2017 refusing to grant stay, pending disposal of the Appeal No.2803/LTR-2/2017 filed by the petitioners under Section 7(2) of the A.P. (Schedule Castes, Schedule Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993, as illegal and arbitrary.

It is the contention of the learned counsel for the petitioners that the impugned order is a non speaking order and even prima facie the case of the petitioners is not being considered even though the petitioners have got the balance of convenience and irreparable loss in their favour.

Originally, the petitioners were issued the community certificates in the year 2016. However, on complaints being received that the caste certificates have been obtained by playing fraud, the same came to be cancelled by the competent authority and against which an appeal was filed before the 2nd respondent in Memo No.2803/LTR-2/2017 and the same is pending. Along with the said appeal, an application was also filed seeking to suspend the proceedings No.C3/409/2007 dated 9.3.2017 issued by the 3rd respondent-District Collector. Thereafter, the 2nd respondent passed the impugned order rejecting the stay application filed by the petitioners. Questioning the same, the present writ petition is filed.

There is no dispute that the appeal is pending against the proceedings No.C3/409/2007 dated 9.3.2017 issued by the 3rd respondent-District Collector. If the stay is not granted by the competent authority, the very filing of the appeal itself would be meaningless. However, if the 2nd respondent authority felt that the petitioner did not have any case, the appeal itself could have been disposed of.

In those circumstances, the writ petition is allowed setting aside the order dated 28.07.2017, passed by the 2nd respondent with a direction to the 2nd respondent to dispose of the appeal itself filed by the petitioners within a period of eight weeks from the date of receipt of copy of the order. Till such time, the appeal is disposed of, the proceedings of the 3rd respondent-District Collector in C.No.C3/409/2007 dated 9.3.2017, stands stayed. However, it is made clear that if the petitioners do not participate in the enquiry and do not cooperate for hearing of the appeal, the 2nd respondent may pass the orders exparte basing on the material available on record. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

Date:30.08.2017,
Note:
 Issue CC forth with
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