

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 40365 of 2017

Order:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner was appointed as Conductor on regular basis on 08.11.1988 under Scheduled Caste category on the basis of community certificate issued in his favour stating that he belongs to Budaga Jangam (SC Caste). While so, one Sri Sai Baba alleged to have given a complaint to the second respondent and on receipt of the complaint a preliminary enquiry was conducted which revealed that the petitioner belongs to Jangam (BC-A Caste). In view of the preliminary enquiry, the petitioner was kept under suspension while issuing a charge sheet on 21.11.2017. As on the date of issuing the order of suspension, the petitioner continued in service for 29 years. With regard to community certificates, there is separate enactment called The Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and the competent authority is the District Level Scrutiny Committee. It is open to the employer to refer the cases of doubtful community certificates of its employees to the competent authority and obtain its opinion. Without taking such action, when the authority wants to conduct an enquiry, the present Writ Petition is filed.

When the matter is governed by a statute, the statutory provisions have to be followed and no useful purpose would be served by conducting a departmental enquiry independently.

In the circumstances, the impugned order of suspension is set aside and liberty is given to the second respondent to refer the matter to

the District Collector to conduct an enquiry in accordance with the provisions of the Act 16 of 1993 and after obtaining the opinion he can pursue the departmental proceedings pursuant to the charge sheet dated 21.11.2017.

The Writ Petition is, accordingly, allowed to the extent of setting aside the order of suspension and giving liberty to the second respondent as aforesaid. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 29.11.2017
Nsr



A. RAMALINGESWARA RAO, J