

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

+ Writ Petition No.629 of 2018

% 06-6-2018

M.Satyanarayana Raju, S/o. Late M.Appala Raju,
Aged 51 years, Occ: Process Server (Under the orders
of Suspension), Junior Civil Judge's Court,
Srungavarapukota, C/o. K.Swamy Naidu,
Near Suryanarayana Temple, Punyagiri Road,
Beside Govt. Hospital road, S.Kota, Vizianagaram Dist.
... Petitioner

Vs.

\$ G.Srinivasa Reddy, S/o. Late Godla Satyanarayana
Reddy, Hindu, Aged 50 years, residing at 17-2-6,
Pedda Gantyada (V) & (M), Visakhapatnam
... Respondents

! Counsel for the Petitioner: Mr. A.Nagendra Rao

Counsel for Respondent No.1: Govt. Pleader for Law &
Legislative Affairs (AP)

Counsel for Respondent No.2: Ms. V.Uma Devi,
Standing Counsel for HC TAP

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> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
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Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition challenging the order of suspension and the initiation of disciplinary proceedings.

2. Heard Mr. A.Nagendra Rao, learned counsel for the petitioner and Ms. V.Uma Devi, learned Standing Counsel for the Registry.

3. The petitioner was selected and appointed to the post of Attender way back in the year 1997, on the basis of the claim made by him that he belonged to Mooka Dora caste, which is classified as a Scheduled Tribe. The petitioner was also promoted to the post of Process Server and he has been working for the past of more than 20 years.

4. It appears that on a query raised under the Right to Information Act, 2005, followed by a complaint lodged by an Advocate describing himself to be the Scheduled Tribe Employees' Legal Advisor, the community certificate produced by the petitioner was referred to the District Collector. The District Collector, Vizianagaram, called for a report from the Tahsildar, Pachipenta. The Tahsildar, Pachipenta, sent a letter dated 21-11-2017 to the District Collector stating that his enquiries revealed that there was nobody found to belong to the said caste in Pachipenta village. The letter of the Tahsildar dated 21-11-2017

is a very brief letter whose contents could be reproduced usefully as follows:

“I invite kind attention to the reference cited, wherein I have instructed to verify the Caste Certificate issued in respect of Sri M.Satyanarayana Raju, S/o. Gopala Raju, Pachipenta Village of Pachipenta Mandal vide S.No.432/90 (ST), Dt. 10.1990.

In this connection, the certificate of Sri M.Satyanarayana Raju, S/o. Gopala Raju was enquired in Pachipenta Village and found that there was nobody found in the caste in Pachipenta Village. Hence, the Caste Certificate was fake.”

5. On the basis of the said letter of the Tahsildar, the District Collector informed the Principal District Judge, Vizianagaram, by his communication dated -11-2017 that the caste certificate produced by the petitioner was fake.

6. On the basis of the said letter of the Collector, the District Judge, Vizianagaram, placed the petitioner under suspension by orders dated 19-12-2017 and also issued a notice to show cause as to why disciplinary proceedings should not be initiated against the petitioner. Aggrieved by these proceedings, the petitioner is before this Court.

7. At the outset, it should be pointed out that insofar as the State of Andhra Pradesh is concerned, the issue of community certificates is governed by a statutory enactment known as Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993. In the States where there are no special enactments, the law declared by the Supreme Court for the constitution of District Level Committees and State Level Scrutiny Committees, hold the field. Under Section 5 of the Special Enactment in the

State of Andhra Pradesh, the District Collector has to conduct an enquiry into the correctness of a caste certificate. It is not an enquiry where the person concerned will be kept completely out of the purview. It is an exercise where the person asserting himself to belong to a particular community, will also have an opportunity of hearing.

8. But in this case, the District Collector simply called for a report from the Tahsildar and the Tahsildar jumped to the conclusion that the certificate was fake merely on the ground that there are no persons available in the village, belonging to the said community. The question that actually should have been addressed was whether the petitioner belonged to the particular caste or not. But the Tahsildar addressed himself to the question whether the persons belonging to the said community were available in the village or not.

9. Moreover, the certificate in this case was issued way back in the year 1990. The certificate was issued by the Mandal Revenue Officer, Pachipenta, on 05-10-1990. It was not the case of the Tahsildar that the signature of the Mandal Revenue Officer was forged. Section 21 of the 1993 Act, specifically states that a community certificate issued by the competent authority prior to the commencement of the 1993 Act, unless it is cancelled in terms of the procedure contemplated under the Act, will be valid.

10. As rightly pointed out by another Bench of this Court in its decision dated 20-4-2018 in W.P.No.2850 of 2014, Rule 9 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth

Certificates Rules, 1997, deals with the procedure for the verification of a caste certificate. The District Collector is required to refer the case to the Scrutiny Committee formed under Rule 8. After the Scrutiny Committee conducts an enquiry and sends a report, the District Collector should take a decision under Rule 9(7) and thereafter issue a notification in the Official Gazette canceling the earlier certificate.

11. Without the District Collector following any of the procedure contemplated by the statutory enactments and the Rules, the respondents have come to the conclusion that the certificate produced by the petitioner is fake. This is completely contrary to the procedure prescribed by law and hence, the impugned orders are liable to be set aside.

12. Therefore, the writ petition is allowed and the impugned orders are set aside. However, it will be open to the authorities to follow the procedure prescribed by the statutory enactments and the Rules and take action in accordance with the law. The interlocutory applications, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

N.BALAYOGI, J.

06th June, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

Writ Petition No.629 of 2018
(per VRS, J.)



06th June, 2018.
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