

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.2831 OF 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue (TG) appearing for the respondents.

2. In the present writ petition, challenge is to the order passed by the Collector & District Magistrate, Adilabad, respondent No.2 herein, *vide* proceedings No.C3/1249/2017, dated 09.01.2018. By way of the said order, respondent No.2 herein declared that the petitioner herein does not belong to ST (Kammara) Community.

3. When the matter is taken up, a preliminary objection as to the maintainability of the writ petition is taken by the learned Government Pleader appearing for the respondents that as against the order impugned in the present writ petition, Section 7 of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short, "the Act") provides for appeal and without availing the same, the present writ petition has been filed directly before this Court and on the sole ground, the writ petition deserves to be rejected.

4. Section 7 of the said Act reads as under:-

"Appeal and review:-

(1) Any person aggrieved by an order passed under sub-section (1) of Section 4 by the competent authority rejecting an application made to it under Section 3, may within thirty days from the date of receipt of such order, appeal to the District Collector and the District Collector

may after giving the appellant an opportunity of being heard, either confirm the order appealed against or set aside the said order and direct the competent authority to issue a community certificate.

(2) Any person aggrieved by an order passed under Section 5, by the District Collector may, within thirty days from the date of publication of such order in the Andhra Pradesh Gazette, appeal to the Government and the Government may, after giving the appellant an opportunity of being heard and subject to such rules as may be prescribed, confirm or set aside the order appealed against.

(3) The Government may, on an application received from any person aggrieved by an order passed by the Government under sub-section (2) of Section 5, within thirty days of the publication of that order in the Andhra Pradesh Gazette, review any such order if it was passed by them under any mistake, whether of fact or law or in ignorance of any material fact.

(4) Pending disposal of an appeal under sub-section (2) or review under sub section (3), it shall be competent for the Government to stay the operation of the order against which an appeal or review, as the case may be, is filed."

Admittedly, in the present case, the District Collector passed the order under challenge under Section 5 of the Act. In view of the above statutory appeal, this Court is not inclined to entertain the present writ petition. However, it is open for the petitioner herein to file a statutory appeal under the provisions of Section 7 of the Act and it is also open for the petitioner herein to file an application seeking stay of the order impugned in the present writ petition, if she is advised to do so.

5. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 31.01.2018

Note:- Furnish C.C. today.

B/O
AMD



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