

THE HON'BLE SRI JUSTICE P.KESHAHA RAO

WRIT PETITION NO.3412 OF 2008

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

2. The present Writ petition is filed seeking the following relief:

“... to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring GO.Ms.No.16 dated 6.2.2008 issued by the 1st respondent herein in confirming the proc. No. D1/1570/92; dated 30.11.2004 of the 2nd respondent cancelling petitioner's caste certificate vide L.Dis.No. G/708/79 dated 26.7.1979 issued by the 3rd respondent as illegal, without any basis, in violation of the provisions of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, against the principles of natural justice and consequently declare that the petitioner belong to 'Mala SC community' .”

3. The facts in brief are that the petitioner belongs to Mala Caste (SC) by birth and after completing the graduation, he was selected as Assistant Grade-III (Depot) in the Food Corporation of India under SC quota. His parents were uneducated and worked as bonded labour. Therefore, his caste was not mentioned anywhere in the school and college

records. He was issued a Caste Certificate by the then MLA of Musheerabad on 28.6.1975. Subsequently, respondent No.3 also issued caste certificate vide L.Dis.No. G/708/79 dated 26.7.1979 certifying his caste as "Mala (SC)". He married one G.D. Swarnalatha on 15.4.1972 who is a Christian. Since differences arose between them, they got separated and the petitioner contracted a second marriage with one C.Sashi Rekha who belongs to 'Vyshya' community. Boring grudge on the petitioner, his first wife made a false complaint dated 15.6.1979 to the Food Corporation of India stating that the petitioner produced a false caste certificate and thereby misrepresented and deceived the Government and obtained a job. Pursuant to the said complaint, the Food Corporation of India requested the Collector and District Magistrate, Hyderabad district i.e., respondent No.2 herein to verify the genuineness of the caste certificate issued in favour of the petitioner. Respondent No.2 issued notice to the petitioner calling upon him to appear for personal hearing on 21.9.2004 and 22.9.2004 and thereafter issued proceedings No.D1/1570/92 dated 30.11.2004 cancelling the caste certificate issued in favour of the petitioner by respondent No.3. Aggrieved by the said proceedings, the petitioner filed Appeal No.979/CV-1 before respondent No.1. Pending the

appeal, vide Memo No.979/CV1/2004-1 dated 8.2.2005, the petitioner was granted stay of orders passed by respondent No.2. Before the appellate authority, though the petitioner sought time through his counsel to produce the documentary evidence, he was not given an opportunity and respondent No.1 passed orders in GO.Ms.No.16 Social Welfare (CV.1) department dated 6.2.2008 rejecting the appeal by upholding the proceedings of respondent No.2 dated 30.11.2004. Aggrieved by the said proceedings, the present Writ Petition is filed.

4. Respondent No.5, who has been impleaded subsequent to the filing of the Writ Petition as per the orders passed in WPMP.No.10540 of 2008 dated 25.9.2008, has categorically stated that the first wife of the petitioner filed a complaint on 15.6.1979 to the District Manager, Food Corporation of India, Sanathnagar, Hyderabad stating that the petitioner belongs to 'Vyshya' community but produced false S.C. caste certificate and secured the job. The District Collector, after giving opportunity to the petitioner by taking all steps as per the procedure laid down in the Act, cancelled the caste certificate by proceedings dated 30.11.2004, against which, the petitioner filed appeal before respondent No.1. Though the petitioner contended that he was not given an opportunity by respondent

No.2 while conducting enquiry, the same is belied in the proceedings dated 30.11.2004 which clearly establish that the petitioner appeared before the District Collector on 21.9.2004 and 22.9.2004 and presented his case.

5. Learned counsel for the petitioner contended that the petitioner was not given a proper opportunity to represent his case before the primary as well as the appellate authority. In fact, he was not given an opportunity to cross-examine one Sri B.Lakshman Rao and others who submitted representations against him.

6. Per contra, learned Government Pleader appearing for the respondents brought to the notice of this Court, by going through the orders of respondent No.1, that ample opportunity has been given to the petitioner to prove his claim. Therefore, the caste certificate issued in favour of the petitioner has been cancelled by following the procedure contemplated under the rules. Therefore, he sought dismissal of the Writ Petition since there are no merits.

7. Having heard both the counsel and from the perusal of the material on record, the point that arises for consideration is:

“Whether the petitioner was not given ample opportunity to participate in the proceedings initiated before respondent No.2 as well as respondent No.1

while cancelling the caste certificate issued in his favour?”

8. From the perusal of the orders passed by respondent No.2 dated 30.11.2004, it is revealed that based on the facts/findings of the case, the District Level Scrutiny Committee has concluded and opined that the petitioner obtained SC Mala caste certificate for the purpose of employment from G.Eswar, MLA on 28.6.1975, for which, no local enquiry was conducted. Therefore, the District Level Scrutiny Committee concluded that bogus SC Mala caste certificate issued in favour of the petitioner may be cancelled. In the said orders, it is also specifically mentioned that the petitioner failed to produce any corroborative or genealogical evidence other than the caste certificate in support of his claim. It is also mentioned that the Government vide GO.Ms.No.880 E & SW dated 17.10.1975 have issued orders cancelling the validity of all such certificates issued by M.L.As without conducting local enquiry.

9. In the case on hand, the caste certificate was issued by Sri G.Eswar, MLA in favour of the petitioner on 28.6.1975 without conducting any enquiry. Further, in the impugned orders, respondent No.2 has mentioned that the petitioner has made contradictory, false and vague statements regarding his alleged sister C.Sukanya, relationship between his second wife

C.Sashi Rekha and I.Venkata Kistaiah, relationship between his mother C.Susheelamma and I.Venkata Kistaiah, obtaining caste certificates from Mandal Revenue Officer Musheerabad mandal to his second wife's children even though they reside within the jurisdiction of Bahadurpura mandal. In fact, the second wife of the petitioner obtained a NOC from Mandal Revenue Officer, Bahadurpura mandal for house bearing No.19-1-620, from which, it is evident that the said property was gifted to his second wife vide gift deed No.1436/2001 by Smt. I. Padmavathi, w/o. Late I.Venkata Kistaiah, I.Umesh, I.Ashok and I.Sridhar who are blood relatives, since the said property is her ancestral property. However, the petitioner has stated that there is no relationship between I.Padmavathi and others to C. Sashi Rekha. Even in the enquiry, it is revealed that the petitioner married G.D.Swarnalatha on 15.4.1972 through registered marriage. After giving birth to two children, he contracted second marriage with C. Seshi Rekha who belongs to Vyshya community, by deceiving his first wife. On local enquiry, the neighbours of the petitioner and his daughter also stated that they belong to Vyshya community. When the enquiry was going on, one B.Laxman Rao and others filed a representation along with book-let of Arya Vyshya Sangam, Unda Bazar, Hyderabad, stating that the petitioner and his

family members actually belong to Vyshya community by birth. The petitioner is a member in Arya Vyshya Sangam, vide Regd.No.1077 in Sl.No.10 and his gotram is Yelisetla. From the impugned orders, it is also revealed that the case was posted for personal hearing on 29.1.2008, on which date, the petitioner and his counsel along with the opponents were present. The petitioner attended the personal hearing on 29.1.2008 and argued the case but has not submitted any valuable documentary evidence.

10. In that view of the matter, the contention of the learned counsel for the petitioner that the petitioner was not given an opportunity to produce the documentary evidence to support his contention and he was not given an opportunity to cross-examine the witnesses, cannot be accepted.

11. However, from a careful perusal of the impugned orders as well as the orders of respondent No.2, it is seen that there is no mention that the petitioner sought permission of the authority to cross-examine the witnesses.

12. Therefore, this Court is of the opinion that there is no irregularity or illegality in the orders passed by respondent No.1 vide GO.Ms.No.16 Social Welfare (CV.1) Department dated 6.2.2008. As such, there are no merits in the Writ Petition and the same is liable to be dismissed.

13. Accordingly, Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P.KESHAHA RAO,J

Date: 22.10.2018

KPM

