

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.3905 OF 2018

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue a writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring the order issued in Proceedings No.C1/638/2017 by the 2nd respondent dated 31.12.2017 which was published in the Gazette No.40/JSB/2017, dated 31.12.2017 whereby cancelling the SC Madiga Caste Certificate No.CND021707548510 dated 24.3.2017 issued by 5th respondent Tahsildar in favour of the petitioner by declaring that the petitioner does not belongs to SC Madiga Community and also to declare the action of the respondent No.1 in not disposing of the application filed along with an appeal to suspend the operation of the impugned order dated 31.12.2017 in RC.No.C1/638/2017 passed by the 2nd respondent as illegal, arbitrary and violation of principles of natural justice and consequently to set-aside the order dated 31.12.2017 in RC.No.C1/638/2017 passed by the 2nd respondent.”

2. Heard learned counsel for the petitioner, learned Government Pleader for Social Welfare (TG) and the learned Government Pleader for Revenue (TG).

3. According to the petitioner, he is a resident of Chennapur Village, Regonda Mandal, Jayashankar Bhupalpally District and he belongs to “Scheduled Tribe” Community. It is further stated that he is the elected Sarpanch of the said village. The District Collector, Jayashankar Bhupalpally District, respondent No.2 herein, by way of an order *vide* proceedings Rc.No.C1/638/2017,

dated 31.12.2017, cancelled the caste certificate of the petitioner herein in exercise of the powers conferred under Section 5(1) of the Telangana State (SCs, STs & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short, “the Act”) read with Rule 9(7) of the Telangana State (SCs, STs & BCs) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 (for short, “the Rules”). Aggrieved by the said order of cancellation of the caste certificate, petitioner herein filed an appeal under Section 7 of the Act read with Rule 10 of the Rules on 27.01.2018. Along with the said appeal, he also filed an application seeking suspension of the orders passed by the District Collector.

4. According to the learned counsel for the petitioner, the said appeal is still pending consideration before the State Government – respondent No.1 herein. It is further submitted by the learned counsel that no orders have been passed either on the interlocutory application or in the main appeal. It is further stated that in view of the same, respondent No.2 is taking steps to pass orders of suspension of the petitioner herein from the post of Sarpanch of Chennapur Gram Panchayat.

5. On the other hand, it is submitted by the learned Government Pleader for Social Welfare that having filed the appeal, it is not open for the petitioner herein to file the present writ petition under Article 226 of the Constitution of India.

6. Since the right of appeal is a substantive right and since number of grounds are urged in the memorandum of grounds of appeal, this Court deems it appropriate to dispose of the writ petition with a direction to respondent No.1 – State Government to

pass appropriate orders on the appeal, dated 27.01.2018, preferred by the petitioner herein against the order passed by respondent No.2 *vide* proceedings Rc.No.C1/638/2017, dated 31.12.2017, within a period of four (4) months from the date of receipt of a copy of this order after affording opportunity to all the stakeholders. Till the said exercise attains finality, there shall be interim suspension of operation of the order passed by respondent No.2 *vide* proceedings Rc.No.C1/638/2017, dated 31.12.2017.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

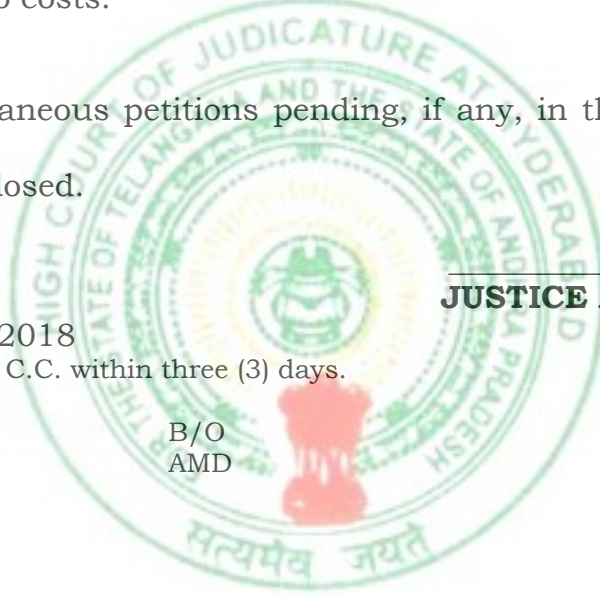
8. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

Date : 07.03.2018

Note:- Furnish C.C. within three (3) days.

B/O
AMD

JUSTICE A.V.SESHA SAI



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Date: 07.03.2018

AMD