

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.10564 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/ s:

'...to issue a writ, order or direction in the nature of Mandamus or otherwise declaring the recommendations Dated 05.01.2018 made by 2nd respondent and consequential proceedings Rc.C5[M]/657/2016 Dated 01.03.2018 including the SPS Nellore District Gazette issued by the 1st respondent, as arbitrary, illegal, discriminatory, mala fide, violating Article 14, 16, 16[4] and 21 of the Constitution of India and contrary to Andhra Pradesh [Scheduled Castes, Scheduled Tribes and Backward Classes] Regulation of issue of Community Certificate Act 1993 [Act 16 of 1993] as well as G.O.Ms.No.58 SW(j) dt.12.05.1997 issued by the Government, and contrary to the law reported in 2008 1 SCC L & D 63, and set aside the same, and pass such other order or orders as it deems fit and proper and circumstances of the case.'

I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Social Welfare (AP) appearing for the respondents 4, 5 & 7. I have perused the material record.

Learned counsel for the petitioner would submit as follows: - 'The issue of petitioner's Caste is being subjected to scrutiny repeatedly despite earlier orders of this Court that no further enquiry is necessary. Against the impugned proceedings, dated 01.03.2018, of the Collector and District Magistrate of Sri Potti Sri Ramulu Nellore District, an appeal would lie to the Government; but, the thirty days time for preferring the said appeal is already over. However, in view of the earlier orders of this Court that no further enquiry into the status of the caste of the petitioner is necessary, the present writ petition is filed.'

Learned Government Pleader for Social Welfare (AP), on instructions, would submit that in no writ petition a final order has been passed and that the petitioner and his father are relying upon interim orders only to avoid a detailed enquiry into the Caste status, that is, Yerukula (Scheduled Tribe)

community status of the petitioner and that in view of the fact that an efficacious alternative remedy of appeal is available to the petitioner, the present writ petition is not maintainable.

In reply, learned counsel for the petitioner would submit that in the event this Court directs the petitioner to approach the appellate authority, the appellate authority may be directed to dispose of the appeal on merits without considering the issue of limitation and that until the disposal of such appeal the interests of the petitioner may be protected as the proceedings impugned of the Collector reflect that the petitioner is liable for criminal prosecution and that a direction was also given to the Tahasildar, Chejerla, to file a complaint against the petitioner herein in the police station.

Having regard to the facts and submissions, the Writ Petition is disposed of reserving liberty to the petitioner to file an appeal before the appellate authority/ the Government within four (04) weeks from the date of receipt of a copy of this order. It is made clear that in the event the petitioner prefers any such appeal, the Government shall consider and dispose of the same on merits as expeditiously as possible and at any rate not later than four (04) weeks from the date of filing of such appeal, however, without going into the issue of limitation in filing the appeal. Nonetheless, the impugned proceedings of the District Collector insofar it related to the direction to the Tahasildar, Chejerla, to file a complaint in the police station against the petitioner shall remain stayed till the disposal of the appeal by the Government as directed in this order. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

M. SEETHARAMA MURTI, J

02.04.2018

Note: Issue CC by 03.04.2018

[B/o]

Vjl