

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3277 of 2017 in WPMP.No.43046 of 2016 in
WP.No.34920 of 2016

And

WP.No.34920 of 2016

COMMON ORDER :

Heard the counsel for petitioner, the learned Government Pleader for Services for respondent nos.1 to 3, the learned Government Pleader for Revenue for 4th respondent, and the learned Government Pleader for Education for 5th respondent.

2. The petitioner herein belongs to the *Lambada* Caste, which is a Scheduled Tribe Community.

3. He possesses degree in Bachelor of Arts (B.A.) qualification.

4. On 15.07.2012, the District Collector, Warangal issued a Special D.S.C. Notification – 2012, in his capacity as Chair-Person of the Special District Level Selection Committee (I.T.D.A.), Eturnagaram, Warangal, called applications from eligible candidates for the post of Second Grade Teachers (S.G.T.) for various places in the Agency Area.

5. The petitioner applied for one such post and he was selected. He was appointed and posted at G.P.S. (P.W.), Sarwal (5th respondent), vide proceedings dt.04.07.2016 of the 3rd respondent.

6. On a complaint made by an individual, claiming to be President of Adivasi Hakkula Porata Samithi (Tudumdebba), Warangal District,

that the petitioner is not a local Scheduled Tribe, the impugned order dt.25.09.2016 was passed by the 2nd respondent canceling petitioner's appointment to the post of Second Grade Teachers (S.G.T.).

7. The petitioner contends that prior to issuance of his appointment order dt.18.10.2016, there was a detailed enquiry by the District Level Scrutiny Committee (D.L.S.C.), which is the competent authority as per the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act'); and the 4th respondent had in fact issued proceedings No.ITDA/DLSC(Agency)/409/2014 dt.11.01.2016, confirming the genuineness of the Community Certificate which the petitioner had produced to seek appointment to the said post.

8. The petitioner contends that the impugned order has been passed without application of mind to the said proceedings dt.11.01.2016 of the 4th respondent, and it deserves to be set aside being contrary to the said proceedings dt.11.01.2016 of the 4th respondent. It is the further contention of petitioner that under the statute there is no category of a "local" Scheduled Tribe, and that if there is a valid certificate issued under the provisions of the said Act, it has to be respected unless it is set aside in accordance with the procedure prescribed under the said Act; and terminating his services on the ground that his "local" Scheduled Tribe Agency Certificate is not genuine, cannot be sustained.

9. On 18.10.2016, while admitting the Writ Petition, this Court passed orders in WPMP.No.43046 of 2016 in WP.No.34920 of 2016, which states :

“Prima facie, the impugned order dt.25.09.2016 passed by the 2nd respondent canceling the appointment of the petitioner as Secondary Grade Teacher on the basis of the decision by the 4th respondent on 01.07.2013 cannot be sustained since the 4th respondent had subsequently, in proceedings R.C.No.ITDA/DLSC(Agency)/409/2014, dt.11.01.2016, certified that the petitioner’s local S.T. Caste Certificate is genuine.

Therefore, there shall be interim directions as prayed for.”

WVMP.No.3277 of 2017 :

10. WVMP.No.3277 of 2017 is filed to vacate the order dt.18.10.2016 passed in WPMP.No.43046 of 2016 in WP.No.34920 of 2016.

11. In the counter-affidavit filed by the 3rd respondent to the said Vacate Petition, a stand is taken that there was an earlier decision of the District Level Scrutiny Committee (D.L.S.C.), dt.01.07.2013, opining that the Community Certificate issued to petitioner was not genuine, and that was why the impugned order has been passed.

12. There is no reference in the counter-affidavit to the subsequent proceedings No.ITDA/DLSC(Agency)/409/2014 dt.11.01.2016 of the 4th respondent.

13. Why the proceedings dt.11.01.2016 of the 4th respondent, who is superior in rank to the 2nd respondent who passed the impugned order, cannot be accepted, is not adverted to either in the impugned

order or in the counter-affidavit. Moreover, when the Act does not contemplate any “localness” to a Community Certificate issued by a competent authority under the said Act, how such a basis could be taken to cancel the appointment order given to the petitioner as Second Grade Teachers (S.G.T.), is also not explained.

14. For these reasons, WVMP.no.3277 of 2017 filed to vacate the order dt.18.10.2016 passed in WPMP.No.43046 of 2016 in WP.No.34920 of 2016, is dismissed.

15. The Writ Petition is allowed, and the impugned order dt.25.09.2016 of the 2nd respondent is set aside.

16. The petitioner shall be forthwith reinstated into service as Second Grade Teachers (S.G.T.) by the 2nd respondent, and he shall also be entitled to wages from 25.09.2016 till the petitioner is reinstated into service within four (04) weeks of the reinstatement of the petitioner.

17. Accordingly, the Writ Petition is allowed with the above directions. No order as to costs.

18. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07.02.2018

Ndr/*