

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 22121 of 2014

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 18.6.2014 including the notification of even number and date issued by the District Collector, as invalid, arbitrary and contrary to the judgment in W.P.No.27351 of 2013 dated 20.9.2013 as well as Review WPMP No.45648 of 2013, dated 27.12.2013, and consequently, to declare that the Agency Area Certificate possessed by the petitioner is valid, and further, to declare that the petitioner is entitled to be appointed to the post to which he was selected i.e., Language Pandit (Telugu) with all consequential benefits.

2. Heard Sri J. Nagaraja Rao, learned Counsel for the petitioner and the learned Government Pleader for School Education.

3. It has been contended by the petitioner that he belongs to Lambada and he is native of Chichadari Khanapur village of Indravelly Mandal, which is a notified agency area in Adilabad District, and he is fully eligible and qualified to be appointed as Language Pandit (Telugu). Further, it has been contended by the petitioner that the respondents issued DSC-2012

notification to fill up Language Pandit (Telugu) post, and the petitioner responded to the said notification and he participated in the selection process. The grievance of the petitioner is that his case was not considered on the ground that he is not a member belonging to agency area, and that in the DSC-2012 notification issued by the respondents, it was stated that only ST candidates hailing from agency area are eligible for appointment of Language Pandit (Telugu), and since the petitioner could not produce any documentary evidence to the effect that he belongs to ST community and agency area, his case was not considered.

4. The learned Counsel for the petitioner contended that the caste certificate issued in favour of the petitioner declaring him as a member belonging to ST community was not cancelled and only the agency area certificate issued in favour of the petitioner was cancelled, and based upon cancellation of his agency area certificate, the case of the petitioner was not considered for appointment as Language Pandit, and challenging the same, the present writ petition is filed. Further, the learned Counsel for the petitioner submits that similar issue fell for consideration before this Court in W.P.No.27351 of 2013, in which this Hon'ble Court vide order dated 20.9.2013, held as follows:

“Therefore, the writ petition is allowed and the order, dated 12.09.2013 passed by the Tribunal in O.A.No.4057 of 2013 is set

aside. Further, the proceedings, dated 01.09.2013 issued by the 2nd respondent are set aside and the resultant notification is cancelled. The DSC and the appointing authority therein shall consider the case of the petitioner by treating him as Scheduled Tribe and native of Utnoor village and Mandal and finalize the matter within a period of four weeks from the date of receipt of a copy of this order. In case, the petitioner is issued orders of appointment, his appointment shall date back from the date on which others have been appointed, for the purpose of seniority but not for emoluments.”

The learned Counsel for the petitioner further contended that aggrieved by the above said judgment, the respondents therein filed review before this Court in Review WPMP No.45648/2013 and the said Review WPMP was also dismissed vide order dated 27.12.2013, and then, the respondents therein carried the matter in appeal to the Hon'ble Supreme Court by filing SLP No.8206/2014 and the Hon'ble Supreme Court was pleased to dismiss the said SLP vide order dated 8.8.2014.

5. Further, the learned Counsel for the petitioner contended that similar issue fell for consideration before this Court in W.P.No.22931/2014 and batch of cases and this Hon'ble Court vide order dated 6.3.2018 was pleased to pass the following order:

“In the absence of any guidelines being prescribed with regard to the documents to be submitted showing proof of their residence in the agency area since 26th January, 1950, and having regard to the orders passed by the Division Bench of this Court and also in the review petition, the writ petition is allowed setting aside the order dated 14.01.2014 in Rc.No.C3/4580/2012-3 and canceling the resultant notification. Further, the appointing

authority shall consider the case of the petitioner, by treating him to be from agency area and finalize the matter within a period of four to six weeks from the date of receipt of a copy of this order. In case, the petitioner is issued with orders of appointment, his appointment shall date back from the date on which others were appointed, for the purpose of seniority, but not for the emoluments. No costs."

Relying upon the above judgments of this Court, the learned Counsel for the petitioner submits that appropriate orders may be passed directing the respondents to consider the case of the petitioner for appointment as Language Pandit (Telugu).

6. The learned Government Pleader submits that agency area certificate was cancelled after following the procedure and since the petitioner is not a member belonging to agency area, his case was not considered and that the respondents have not committed any illegality in denying the appointment of the petitioner and that there are no merits in this writ petition.

7. This Court having considered the rival submissions made by the parties is of the view that the impugned proceedings issued by the respondents dated 18.6.2014 are contrary to the judgments referred to supra and therefore, the impugned proceedings and the consequential notification are liable to be set aside.

8. Accordingly, the Writ Petition is allowed setting aside the impugned proceedings dated 18.6.2014 and the consequential

notification issued by the respondents. The respondents are directed to consider the case of the petitioner by treating him to be from agency area and finalize the matter within a period of four weeks from the date of receipt of copy of this order. Further, the respondents are directed to consider the case of the petitioner for appointment as Language Pandit Telugu, with all consequential benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

10th December, 2018
Nn

ABHINAND KUMAR SHAVILI, J



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.22121 of 2014
(allowed)

10th December, 2018

Nn