

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.594 OF 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The first respondent/writ petitioner approached this Court by way of W.P.No.10147 of 2018 with the following prayer:

“Hence for the reasons stated above, the petitioner prays that the Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for all connected records pertaining to the proceedings in Rc.E/567/2018 dated 15-03-2018 issued by the Respondent No.3 and quash the same as illegal, arbitrary and in violation of Section 21 R/W Rules 16, 19 & 21 of A.P. (SC, ST & BC) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The proceedings dated 15.03.2018 issued by the Revenue Divisional Officer, Ongole, Prakasam District, pertained to the refusal by the said authority to issue a Scheduled Caste certificate to the first respondent/writ petitioner on the strength of the finding that he belongs to OC category. While the said proceedings were subjected to challenge in the writ petition, the prayer of the first respondent/writ petitioner for interim relief therein reads differently altogether and was far in excess of the main prayer. Besides seeking interim suspension of the aforesaid proceedings of the Revenue Divisional Officer, his prayer for interim relief includes the following:

“Under these circumstances I pray that the Hon'ble Court may be pleased to direct the Respondent No.3 to issue letter to

Respondent No.5 to consider the case of the petitioner for provisional appointment as per Rule 19 of the Rules on the basis of the declaration given by the Petitioner with regard to his caste, pending the above Writ Petition and pass such other and further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Accepting this prayer for interim relief, the learned Judge passed order dated 27.03.2018 in I.A.No.1 of 2018 in W.P.No.10147 of 2018, which is under challenge in the present appeal and reads as under:

"Heard. Perused the material record.

Having regard to the facts & submissions and the issues raised in the grounds of Writ Petition, which require a detailed examination, there shall be a direction to the 3rd respondent to issue provisional caste certificate of the petitioner as desired by the petitioner to the 5th respondent, subject, however to the final decision on the caste of the petitioner by the District Level Scrutiny Committee; and, on receipt of such provisional certificate, the 5th respondent shall consider the case of the petitioner for provisional appointment as per Rule 19 of the Rules."

The learned Judge failed to stop short at directing the Revenue Divisional Officer to furnish the provisional Caste Certificate to the Andhra Pradesh Public Service Commission, the fifth respondent in the writ petition, but also directed that the Andhra Pradesh Public Service Commission shall consider the case of the first respondent/writ petitioner for provisional appointment as per Rule 19 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.

Any service matter, including a dispute relating to appointment to a particular post in the service of the State Government, would necessarily have to be brought before the Andhra Pradesh Administrative Tribunal,

Hyderabad, the Court of the first instance, in terms of the law laid down by the Supreme Court in L.Chandra Kumar v. Union of India¹. It is not open to the first respondent/writ petitioner to seek relief in that regard directly from this Court in the form of an interim order in a writ petition.

The order under appeal to the extent it directs the Andhra Pradesh Public Service Commission to consider the case of the first respondent/writ petitioner for provisional appointment is accordingly set aside, retaining the rest of the order as it stands. The first respondent/writ petitioner is at liberty to approach the Tribunal in accordance with law with regard to his service disputes, if any. The appellant is also at liberty to invoke appropriate remedies available to him in law as regards consideration of the candidature of the first respondent/writ petitioner for appointment to the subject post, if aggrieved thereby.

The writ appeal is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Date: 17.04.2018

Note:-

Issue CC by 19.04.2018.

(B/o)

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¹ (1997) 3 SCC 261