

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.871 OF 2007

ORDER:

Petitioner, who claims that he belong to Lingadharikoya Scheduled Tribe and hailed from Bodu Village, Tekulapalli Mandal of Khammam District, filed this writ petition questioning the G.O.Ms.No.100 Social Welfare (CV-2) department dated 30.12.2006 wherein the Secretary to Government-appellate authority under Section 7 (2) of AP (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short 'Act 16 of 1993') confirmed the orders in Pro.No.C2/8335/97 dated 02.12.2003 passed by the District Collector, Ranga Reddy District, cancelled the Caste certificate issued to the petitioner and also directed the concerned to initiate the action under Section 420 of Indian Penal Code and to withdraw all benefits under Sections 11 (1), 11(2) and 11 (3) of the Act 16 of 1993 and also consequential action under Rule 9 (G) and 15 (a) (b) (c) of the Rules.

Brief facts of the case are that basing on the complaint made by Nuclear Fuel Complex Scheduled Tribe Employees Association, the Nuclear Fuel Complex (NFC) authorities referred the matter to the Commissioner Tribal Welfare, Government of A.P. along with copy of the Community Certificate of the petitioner issued by the then Tahasildar, Medchal, for investigation. The Commissioner, Tribal Welfare informed to the Administrative Officer, NFC, that the investigation revealed that the petitioner does not belong to Scheduled Tribe but belongs to Balasanthu or Bahrupi Community, which is not notified as Scheduled Tribe. Based on the same, the Administrative Officer, NFC, requested the District Collector, Ranga Reddy, to cancel the Caste Certificate of the

petitioner. On receipt of the said letter, the Collector referred the matter to the District Level Scrutiny Committee to enquire into the matter. The Committee issued a show cause notice to the petitioner and after considering his explanation, the Joint Collector vide proceedings No.C5/8335/97 dated 07.10.1998 cancelled the S.T. Caste Certificate issued by the Tahasildar, Medchal. Aggrieved by the same, the petitioner filed an appeal before the Government. The Government vide Memo dated 23.01.1999 remitted the matter to the District Collector on the ground that the power to cancel a false Caste Certificate is only vested with the District Collector as per Section 5 (1) of Act 16 of 1993 and not the Joint Collector.

After the remand, a show cause notice dated 21.04.1999 was issued to the petitioner to which the petitioner submitted his explanation on 13.05.1999. Further, on 23.12.1999 the petitioner submitted a petition along with Migration-cum-Caste certificate issued by the Mandal Revenue Officer, Tekulapally, certifying that the petitioner belongs to ST 'Lingadhari Koya' and originally native of Bodu (V), Tekulapalli (M) of Khammam District, and requested to confirm his caste certificate based on the said Migration Certificate. The District Collector, Ranga Reddy, addressed a letter to the District Collector, Khammam, to verify the genuineness of the Migration Certificate produced by the petitioner. After due enquiry, the District Collector, Khammam, vide letter dated 20.05.2000 informed that on enquiry it is proved that the petitioner never lived in Tekulapally and his forefathers also never lived in Bodu (V), Tekulapalli (M) and the Migration-cum-Caste Certificate was issued without proper enquiry. Hence, the Caste Certificate dated 05.10.1979 issued by the then Tahasildar was

cancelled by the Collector vide proceedings dated 06.06.2000. While so, the petitioner filed W.P.No.11215 of 2000 before this Court questioning the show cause notice issued by the Collector on 21.04.1999. This Court disposed of the said writ petition by order dated 01.08.2001 permitting the petitioner to raise all his grounds by giving a detailed additional explanation and directed the Collector to consider the same as per the law. Pursuant thereto, the petitioner submitted his explanation on 21.08.2001 to refer the matter to The District Level Scrutiny Committee. Acceding to his request, the matter was referred under Rule 9 of Rules 1997 to the Committee to enquire into the matter. The Committee after conducting a detailed enquiry and considering the oral evidence of witnesses and documentary evidence available before it concluded that the petitioner obtained the Certificate fraudulently by misrepresenting the facts. After a show cause notice was served on the petitioner on 20.06.2003, the Caste Certificate issued in his favour was cancelled by the District Collector, Ranga Reddy, vide order dated 02.12.2003. The appellate authority after hearing the petitioner/appellant personally and after considering the report submitted by the District Collector, rejected the appeal vide G.O.Ms.No.100 dated 30.12.2006. Being aggrieved by the same, the present writ petition came to be filed.

Sri Nuthalapati Krishna Murthy, learned counsel appearing for the petitioner would contend that the petitioner was issued Migration-cum-Caste certificate of Scheduled Tribe (Lingadhari Koya) by the then Mandal Revenue Officer, Tekulapalli, on verification of the petitioner's claim. About 25 years ago, the petitioner and his forefathers migrated to City and started living at Qutbullapur and some of their relatives are residing at Medchal

and Bowenpally of the Ranga Reddy District. For the purpose of obtaining Scheduled Tribe certificate, the petitioner was issued Migration-cum-Caste certificate of (Lingadharikoya) by the then Mandal Revenue Officer, Tekulapally (M), Khammam District, after due verification. The District Collector, Ranga Reddy, referred the matter to the District Level Scrutiny Committee to enquire into the veracity of the caste certificate of the petitioner. During the course of enquiry of the caste certificate of the petitioner, it is came to light that along with petitioner, some others also obtained false certificates. The Committee got enquired into the matter after giving opportunity to the petitioner and after considering his explanation and oral evidence of witnesses and other documentary evidence, held that the Migration Certificate was obtained by the petitioner fraudulently and by misrepresenting the facts. Based on the said report, the District Collector, Ranga Reddy, after issuing a final show cause notice to the petitioner, cancelled the Caste Certificate issued in favour of the petitioner and also ordered for initiation of criminal prosecution against the petitioner.

Learned counsel would submit that there is no provision to issue Migration-cum-Caste certificate of Scheduled Tribe issued to the petitioner under the provisions of the Act 16 of 1993 and Rules 1997. It has no validity. The Migration-cum-Caste certificate cannot be used for the purpose of claiming benefits under the category of 'ST'. The said certificate would only enable the petitioner to obtain the Community Certificate. Petitioner preferred appeal to the first respondent under Section 7 (2) of Act 16 of 1993, but the first respondent-statutory appellate authority under the Act had dismissed the appeal vide impugned G.O. without considering any of the grounds raised by the petitioner in the

appeal. Despite, the first respondent adopted a strange method of calling for the remarks of the second respondent and placing reliance on such remarks, adjudicated the appeal. The statutory appellate authority has to independently decide the appeal without being influenced by the remarks submitted by the primary authority. Learned counsel further contends that as the appeal itself is directed against the order of the second respondent, calling for remarks from the second respondent and placing reliance on such remarks without putting them to the notice of the petitioners amounts to violation of principles of natural justice. The first respondent appellate authority had not given any valid reasons for dismissing the appeal. The original authority District Collector based on the report of the District Level Scrutiny Committee and without properly appreciating the same, cancelled the Migration-cum-Caste certificate issued. Learned counsel further contends that the petitioner was given the Caste certificate by the Mandal Revenue officer, Tekulapalli, on enquiry about the claim of the petitioner. The petitioner never misled or misrepresented the facts to the authorities. Hence, initiation of criminal action against the petitioner is illegal and without any basis. Hence, the order of the original authority and the appellate authority are liable to be set aside.

The learned Government Pleader appearing for the respondents would contend that proper enquiry was conducted as envisaged under the provisions of Act 16 of 1993 and due opportunity was given to the petitioner before the enquiry officer, but the petitioner failed to adduce any legal and documentary evidence in respect of his claim of Scheduled Tribe (Lingadarikoya). While reiterating the averments of the counter, findings of the

primary authority, he would further contend that the appellate authority after considering the contentions of the appellant in the appeal and based on the evidence available on record and after elaborate discussion, in exercise of the powers under Section 7 (2) of Act 16 of 1993 dismissed the appeal while confirming the order of the District Collector dated 02.12.2003. There is no illegality or irregularity and non-consideration of grounds of appeal in dismissing the appeal of the petitioner. He further urged that the claim of the petitioner that he belongs to Lingadari Koya community, migrated from Boda (V) of Tekulapalli (M) of Khammam District and moved to City for livelihood is found to be incorrect and without any evidence. The appellate authority further held in the appeal that the petitioner prefixed surname 'Veesam' to his name which is common in Koya and Lingadhari Koya communities, but on verification of the documents produced by the Election commission his original surname is found to be Vibudhi, which is commonly found among Balasanthu/Budiga Jangams community. Petitioner mentioned his surname 'Veesam Vibhudhi' by adding 'Veesam' to his original surname 'Vibudhi'. On verification, it is found that the persons belonging to 'Balasanthu', who are also called as 'Bahurupi' or 'Pagativeshagallu' or 'Budigajangalu' residing in certain areas of Ranga reddy District are obtaining bogus ST certificates. The first respondent after careful examination of the reports and material available on record dismissed the appeal. The petitioner was given ample opportunity at every stage one before District Level Scrutiny Committee and the District Collector and even the appellate authority after affording the opportunity of personal hearing to the petitioner, dismissed the appeal. Hence, there is no irregularity or

illegality in the order of the appellate authority and the writ petition is liable to be dismissed.

In the facts and circumstances of the case and in considered view of this Court, it is found that the Mandal Revenue Officer, Tekulapalli, had issued Migration-cum-Caste Certificate of 'ST' (Lingadharikoya) to the petitioner on his claim, without properly verifying the claim of the petitioner in Bodu (V). When the District Collector, Ranga Reddy, was sought to enquire into the veracity of the Caste Certificate of the petitioner, he addressed a letter to the District Level Scrutiny Committee to verify the veracity of the Migration Certificate issued to the petitioner. The Committee after providing sufficient opportunity to the petitioner and after considering the oral evidence of the witnesses and documentary evidence produced by the petitioner, held that the petitioner obtained the Migration Certificate by fraudulently misrepresenting the facts before the authorities. During enquiry in the village, it is found that the petitioner or his forefathers do not belong to Boda (V) and there is no caste exists called as Lingadharikoya in the said Village and the claim of the petitioner was not supported by any evidence. Based on the report of the District Level Scrutiny Committee, the District Collector, Ranga Reddy, passed order dated 02.12.2003 cancelling the Migration-cum-Caste Certificate of ST (Lingadharikoya) obtained by the petitioner from the then Mandal Revenue Officer, Tekulapalli (M), Khammam District, and also ordered to initiate criminal action against the petitioner as per the rules framed in AP (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997. Petitioner carried the matter before the first respondent appellate authority under Section 7 (2) of Act 16 of 1993. The appellate authority after

giving proper opportunity of personal hearing, on submission of the evidence by the petitioner-appellant, after considering the reports of the District Collector and based on the evidence available on record and in exercise of power under Section 7 (2) of Act 16 of 1993 dismissed the appeal confirming the order of the District Collector dated 02.12.2003. On perusal of the order passed by the appellate authority, this Court is of the considered view that the contention urged by the learned counsel appearing for the petitioner before this Court that the appellate authority has not independently acted in dismissing the appeal and erred in relying on the report of the District Collector in dismissing appeal and the appellate authority has not considered the grounds raised in the appeal, are untenable. Hence, the impugned orders can not be interfered under Article 226 of the Constitution of India when there are no legal infirmities in the findings recorded by the primary and appellate authorities.

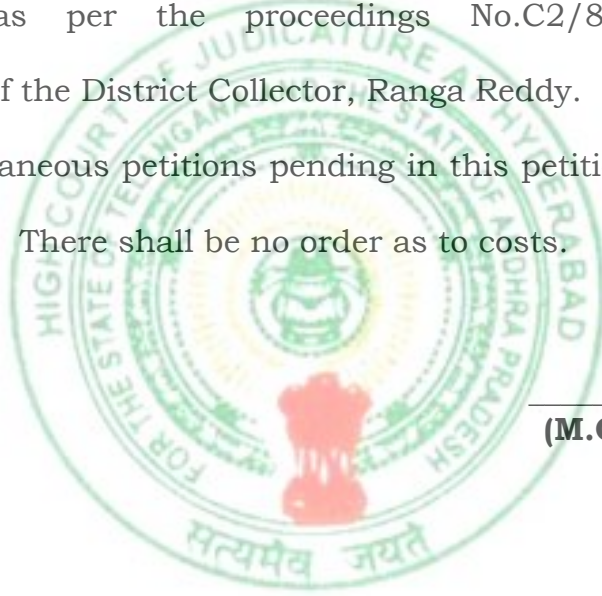
As regards initiation of criminal proceedings, learned counsel for the petitioner would contend that the petitioner has not played any fraud or misrepresentation in obtaining Migration-cum-Caste Certificates of 'ST' from the then Mandal Revenue Officer, Tekulapalli, Khammam District. But, the then Mandal Revenue Officer issued Certificate after due verification of the claim of the petitioner that he belongs to Boda (V) of Tekulapalli (M) belonging to Lingadhari Koya community, his ancestors migrated to City more than 25 years ago and started living in Ranga Reddy by erecting huts and eking out their livelihood by doing caste profession and he never enjoyed any benefits out of the Certificate issued by the Mandal Revenue Officer, Tekulapalli. In those circumstances, initiation of criminal proceedings against the petitioner on the

ground that he obtained caste certificate by fraud and misrepresentation would not stand for legal scrutiny as the same is contrary to the provisions of Act 16 of 1993. Hence, ordering for initiation of criminal prosecution against the petitioner for obtaining Migration-cum-Caste Certificate is declared as illegal and accordingly to that extent the orders of the primary and appellate authorities are set aside while upholding the orders of cancelling the Migration-cum-Caste Certificate and Community Certificate.

Accordingly, the writ petition is partly allowed directing the respondents not to initiate any criminal prosecution against the petitioner, as per the proceedings No.C2/8335/97 dated 02.12.2003 of the District Collector, Ranga Reddy.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

26.07.2018
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(M.GANGA RAO, J)