

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
THE HON'BLE MS. JUSTICE J.UMA DEVI

**WRIT PETITION No. 21254 of 2018**

**ORDER:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

In this writ petition, the petitioner seeks a Mandamus to declare the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, recognizing Banjaras (Lambadis and Sugalis) as Scheduled Tribes in the Telangana areas of the erstwhile State of Andhra Pradesh, presently in the State of Telangana, as arbitrary and illegal; and to consequently declare that the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 recognizing Banjaras (Lambadis and Sugalis) as Scheduled Tribes, in the Telangana areas of the erstwhile State of Andhra Pradesh (presently Telangana State), is unconstitutional, illegal and violative of Article 342 of the Constitution of India.

Pursuant to Section 41 of the States Reorganisation Act, 1956, the President made the Scheduled Castes and Scheduled Tribes Lists (Modification) Order 1956 which was notified in S.R.O.2477A, and was published in the Gazette of India on 29.10.1956. Para 3 (2) of the said notification modified the Constitution (Scheduled Tribes) (Part C States) Order, 1951 in the manner and to the extent specified in Schedule IV. Part I of the said Schedule related to the State of

Andhra Pradesh; and, thereunder, both Lambadis and Sugalis were not included as Scheduled Tribes.

The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (Central Act 108 of 1976) received the assent of the President on 18.09.1976, and was published in the Gazette of India on 20.09.1976. The said Act provides for the inclusion in, and the exclusion from, the lists of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, for the re-adjustment of representation of parliamentary and assembly constituencies in so far as such re-adjustment is necessitated by such inclusion or exclusion, and for matters connected therewith. By Section 4, the Scheduled Tribes Orders were amended in the manner, and to the extent, specified in the Second Schedule. Part-I of the Second Schedule, in so far as it related to the then State of Andhra Pradesh, included Sugalis and Lambadis at Serial No.29 thereof. It is because of this inclusion that Lambadis and Sugalis are now recognised as Scheduled Tribes.

Article 342 of the Constitution relates to Scheduled Tribes and Article 342 (1) enables the President with respect to any State or Union territory, and where it is a State, after consultation with the Governor and by public notification, to specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall, for the purposes of the Constitution, be deemed to be Scheduled Tribes in relation to that State or Union

territory, as the case may be. Article 342 (2) confers power on Parliament, by law, to include in or exclude from the list of Scheduled Tribes, specified in a notification issued under clause (1), any tribe or tribal community or part of or group within any tribe or tribal community; but, save as aforesaid, a notification issued under the said clause shall not be varied by any subsequent notification. Lambadis and Sugalis were not included in the order made by the President under Article 342 (1) of the Constitution i.e., in the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956 notified in S.R.O.2477A. It is only, by virtue of the Parliament having exercised its power under Article 342 (2) to make Central Act No.108 of 1976 amending the Scheduled Tribes Orders in the manner and to the extent specified in the Second Schedule of the said Act, have lambadis and Sugalis now been included in the list of Scheduled Tribes.

The power to specify the tribes or tribal communities, or parts of or groups within tribes or tribal communities, which shall, for the purposes of the Constitution, be deemed to be Scheduled Tribes in relation to a State, is conferred on the President under Article 342 (1) of the Constitution. However, inclusion or exclusion from the list of Scheduled Tribes, specified in a notification issued by the President under Article 342 (1), can only be made by Parliament by law which, in the present case, is the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.

Since power is conferred only on Parliament, exclusion of Sugalis and Lambadis, from the list of Scheduled Tribes, can only be made, by way of a law, by Parliament in the exercise of its powers under Article 342 (2) of the Constitution. A Legislative enactment can only be questioned on grounds of legislative competence or for violation of Part-III of the Constitution. As the legislative competence of Parliament to make law, under Article 342 (2) of the Constitution, is not in dispute, the only question which necessitates examination is whether such a law violates Part-III of the Constitution.

Lambadis and Sugalis form a distinct class. Their inclusion, in Schedule II to Central Act No. 108 of 1976, has not been shown to be violative of Article 14 of the Constitution of India. While we find merit in the submission of Sri K.Anji Reddy that the unrest in the scheduled areas of Adilabad District is because other Scheduled Tribes are aggrieved by the benefits, extended to Scheduled Tribes, being cornered by Lambadis and Sugalis, the fact remains that these are not matters of judicial review, since the power of inclusion in, or exclusion from, the list of Scheduled Tribes is conferred only on Parliament. Since Parliament has exercised its power, under Article 342 (2) of the Constitution of India, to make a law (Act 108 of 1976) including Lambadis and Sugalis in the list of Scheduled Tribes, it is Parliament alone which can exercise its power to make a law to exclude them from the list of Scheduled Tribes. It would be wholly

inappropriate for us, therefore, to entertain this writ petition or to grant the relief sought for therein.

Sri K.Anji Reddy, learned Counsel for the petitioner, would submit that the petitioner-society be permitted to put forth their grievance, before the Government of India, beseeching them to take necessary steps to amend Central Act 108 of 1976, and to exclude Lambadis and Sugalis from the list of Scheduled Tribes. Suffice it to make it clear that the order now passed by us shall not disable the petitioner from making a representation to the Government of India requesting them to consider their grievance regarding inclusion of Lambadis and Sugalis in the list of Scheduled Tribes.

The Writ Petition, however, fails and is, accordingly, dismissed. Miscellaneous Petitions, if any pending, shall stand closed. There shall be no order as to costs.

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(RAMESH RANGANATHAN, ACJ)

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(J.UMA DEVI, J)

Dt.28.06.2018  
Gsn/Kr.

