

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.13444 of 2008

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

The prayer sought in the writ petition is as under:

“... Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the order passed by the 1st respondent in G.O.Ms.No.100 dated 31.05.2008 rejecting the appeal filed by the petitioner against the orders passed by the 2nd respondent in Ref.C5(M)5257/94 dated 09.03.2006 cancelling the petitioner caste certificate i.e., Valmiki as illegal, arbitrary and in violation of principles of natural justice and consequently set aside the order passed by the 1st respondent in the interest of justice.”

Learned counsel for the petitioner mainly contended that before passing the impugned order, the notice issued by the authorities reached the petitioner subsequent to the schedule date of hearing i.e., 27.03.2008. Though the 2nd respondent filed a counter affidavit denying each and every material allegation made in the affidavit filed in support of the writ petition, this point is not answered.

On 29.10.2018, this Court directed the learned Government Pleader to verify the record relating to the statements recorded and also receipt of notice giving the date of hearing before the appellate authority. Pursuant to the said order, though record is produced before this Court, it does not contain the copy of notice sent to the petitioner.

Learned Government Pleader submits that the record produced before this Court is the only file pertaining to the passing

of the impugned proceedings. When the record does not contain issuance of notice intimating the petitioner to appear for hearing on 27.03.2008, the petitioner cannot be expected to appear before the appellate authority and submit his arguments. Therefore, when the petitioner is not allowed to participate in the proceedings and an order was passed behind his back, it amounts to violation of Article 14 as well as violation of principles of natural justice. On this ground alone, the impugned proceedings are liable to be set aside without going into the merits of the case. Therefore, this Court deems it appropriate to set aside the impugned orders in the present writ petition.

Accordingly, the writ petition is allowed setting aside the impugned orders passed by the 1st respondent in G.O.Ms.No.100, Social Welfare (CV.2) Department, dated 31.05.2008 and direct the 1st respondent to issue notice afresh giving the date of hearing to enable the petitioner to appear and pass appropriate orders as per law. It is needless to mention that this order will not preclude the petitioner from raising all the grounds available to him before the appellate authority.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 08.11.2018.
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