

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.40568 of 2015 and W.P.No.6211 of 2016

COMMON ORDER:

Since these two writ petitions are inter-related, this Court deems it appropriate to dispose of these two writ petitions by way of this common order.

2. Heard Sri Kasa Jagan Mohan Reddy, learned counsel for the petitioner in W.P.No.40568 of 2015 and Sri V.C.H. Naidu, learned counsel for the petitioner in W.P.No.6211 of 2016 and Sri Kasa Jagan Mohan Reddy for the 4th respondent in W.P.No.6211 of 2016 and the learned Government Pleader appearing for the respondents in both the writ petitions apart from perusing the material available before this Court.

3. W.P.No.40568 of 2015 is filed under Article 226 of the Constitution of India, for the following relief:

“To issue any Writ or direction more particularly one in the nature of Writ of Mandamus declaring that the schedule caste certificate issued in favour of 3rd petitioner is valid certificate in terms G.O.Ms.No.371 (Employment & Social Welfare (B2) Department), dated 13.04.1976 issued by the 1st respondent and the Memo No.16/SW.POA/2014-1, dated 12.06.2014 issued by the Social Welfare Department, Government of Telangana and consequently set aside the enquiry initiated by the respondents for cancellation of the schedule caste certificate of the petitioners daughter i.e. 3rd petitioner holding the said enquiry is illegal, arbitrary and contrary to the Government Orders.”

4. W.P.No.6211 of 2016 is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a Writ, Order of direction more particularly one in the nature of Writ of Mandamus, directing the 1st Respondent to consider the Petitioner for appointment to the post of Micro Biologist E-1 Grade notified pursuant to the Employment Notification No.2/2015 basing on the Provisional Selection List dated 5.8.2015.”

5. In response to a notification issued by the Singareni Collieries Company Limited petitioners in these two writ petitions applied for the post of Micro Biologist.

6. On the complaint made by the petitioner in W.P.No.6211 of 2016, the Singareni Collieries Company Limited addressed a letter to the revenue authorities for confirmation as to the social status of the third petitioner in W.P.No.40568 of 2015 who is the fourth respondent in W.P.No.6211 of 2016. Obviously, in furtherance of the same, the Revenue Divisional Officer, Kothagudem, issued a notice bearing No.Rc.No.F/3521/2015, dated 08.10.2015 asking the petitioner in W.P.No.40568 of 2015 to attend for enquiry on 16.10.2015. In the complaint made by the petitioner in W.P.No.6211 of 2016, she stated that the third petitioner in W.P.No.40568 of 2015 does not belong to Schedule Caste and belongs of Padmashali-BC-B Category. In W.P.No.40568 of 2015, petitioners 1 and 2 are the parents of the third petitioner and the third petitioner applied for the post.

7. According to the learned counsel for the petitioner in W.P.No.40568 of 2015, the impugned action on the part of the respondent authorities is in total contravention of the instructions of the State Government issued vide G.O.Ms.No.371 (Employment & Social Welfare (B2) Department), dated 13.04.1976 and the instructions of the Union of India vide Lr.No.39/37/73-SCT, 1, Ministry of Home Affairs, dated 4th March, 1975. The complaint obviously of the petitioners in W.P.No.40568 of 2015 is that the respondent authorities are not adhering to the said instructions issued by the State Government and the Union of India.

8. On the other hand, it is submitted by Sri V.C.H.Naidu, learned counsel for the petitioner in W.P.No.6211 of 2016 that since the 3rd

petitioner in W.P.No.40568 of 2015 does not belong to Schedule Caste and as the petitioner in W.P.No.6211 of 2016 belongs to Schedule Caste and is standing at Sl.No.2 in the Selection List, she is entitled to be appointed as Micro Biologist in Singareni Collieries Company Limited. It is maintained by the learned Government Pleader appearing for the official respondents that since the enquiry has already been initiated by the official respondents against the third petitioner in W.P.No.40568 of 2015 on the complaint made by the petitioner in W.P.No.6211 of 2016 and as the respondent authorities are proceeding strictly in accordance with the provisions of Act 16/1993, it is open for the third petitioner in W.P.No.40568 of 2015 to participate in the enquiry to prove her case. It is also submitted that the Tahsildar, Jammikunta Mandal, after holding enquiry, submitted the report to the General Manager (Vigilance), Singareni Collieries Limited, Khammam District vide Proceedings No.C/15616/2015, dated 09.10.2015 as to the status of the third petitioner in W.P.No.40568 of 2015.

9. It is the specific contention of the learned counsel for the petitioners in W.P.No.40568 of 2015, Sri Kasa Jagan Mohan Reddy that it is incumbent on the part of the respondent authorities to adhere to the instructions of the State Government issued vide G.O.Ms.No.371 (Employment & Social Welfare (B2) Department), dated 13.04.1976 and the instructions issued by the Union of India dated 04.03.1975 referred to *supra* and without adhering to the same the District Level Scrutiny Committee is proceeding further with the enquiry and there is no justification on the part of the respondent authorities in doing so.

10. The State Government issued G.O.Ms.No.371 (Employment & Social Welfare (B2) Department), dated 13.04.1976 and paragraph No.1 of the said G.O reads as under:

“The Government have issued orders in the G.Os read above, sanctioning certain incentives and non-statutory educational concessions like scholarships, hostel facilities, fee concessions etc., to the children of inter-caste marriages on the basis of the Caste of either parent. The question whether statutory concessions like reservations in services and educational institutions may be extended to the children of the inter-caste married couples has been examined by the Government. No statutory concessions can be given to the children of the inter-caste married couples as such. But where either parent belongs to Schedule Castes, Scheduled Tribes or Backward Classes and if the child can be declared as belonging to the caste of either parent they will be eligible for the concessions allowed to the persons of that castes. The guide-lines for determining the caste of the child or inter-caste married couples are laid down by the Govt. of India in their letter No.39/37/73-SCT, Ministry of Home Affairs, dated. 4th March, 1975, a copy of which is appended. It is necessary to examine each case with regard to these guidelines and where a child of inter-caste marriage are treated as belonging to Schedule Caste, Scheduled Tribe or Backward Class in accordance with those guidelines, the child is eligible for reservations in services etc., allowed for that caste.”

11. It is evident from the above G.O., that it would be necessary to examine each case in terms of the guidelines issued by the Union of India on 04th March, 1975. The said instructions of the Union of India vide Lr.No.39/37/73-SCT, 1, Ministry of Home Affairs dated 4th March, 1975 are also placed on record by the learned counsel for the petitioner along with the counter affidavit in W.P.No.6211 of 2016. In the said instructions, the Union of India, pursuant to the orders of the Hon'ble Supreme Court in *V.V.GIRI VS. D.S.DORA*¹ clarified that the major factor for consideration is whether a child born out of such a wedlock has been accepted by the Scheduled Caste community as a member of their community and has been brought up as such.

12. In the instant case, it is the case of the petitioners in W.P.No.40568 of 2015 that the third petitioner's father belongs to BC-B community where as the mother who is the second petitioner belongs to schedule caste. Therefore, in the considered opinion of this Court, it is obligatory on the part of the respondent authorities to examine the issue in terms of the

¹ AIR 1959 SC 1318

above said Governmental Orders and come to conclusion as to the status of the third petitioner in W.P.No.40568 of 2015 during the course of enquiry under the provisions of Act 16/1993.

13. For the foregoing reasons, writ petitions are accordingly disposed of, directing the District Level Committee represented by its Chairman-cum-Joint Collector, Karimnagar District/second respondent in W.P.No.40568 of 2015 to examine the issue pertaining to the caste status of the third petitioner in W.P.No.40568 of 2015 strictly in accordance with law and keeping in view the orders of the State Government issued vide G.O.Ms.No.371 (Employment & Social Welfare (B2) Department), dated 13.04.1976 and the instructions of the Union of India issued vide No.39/37/73-SCT, Ministry of Home Affairs, dated. 4th March, 1975 and take action, strictly in accordance with law, after giving opportunity to all the stake holders. This exercise shall be completed within a period of six months from the date of receipt of this order. The appointment pursuant to the notification issued by the Singareni Collieries Limited shall be made subject to the outcome of the said enquiry. It is further made clear that the above order shall hold good if no final orders are passed so far as to the status of the third petitioner in W.P.No.40568 of 2015 under the provisions of Act 16 of 1993. The respondents shall also enquire into the matter by recoding the statements of both the parents of the third petitioner and their relatives, if any, in W.P.No.40568 of 2015. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:30.01.2018
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