

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10490 OF 2002

ORDER

This writ petition is filed for the following relief:

“...to issue a writ order or direction particularly one in the nature of Writ of Certiorari after calling for the records in G.O.Ms.No.50, Social Welfare (CV.2) Department, dated 29-05-2002 received by the petitioner on 8-6-2002 confirming the order of the District Collector issued in Ref.No.B2/3216/97, dated 28-10-1998 and quash the same as illegal, arbitrary and contrary to the provisions of the A.P. (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and also the Rules framed thereunder apart from being contrary to the judgments of the Hon'ble Court and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard Sri M.Panduranga Rao, learned counsel appearing for the petitioner and Learned Government Pleader for Social Welfare appearing for respondents 1 and 2.

It is the case of the petitioner that he belongs to Konda Reddy community. He had obtained caste certificate from the competent authority on 24-09-1985. Based on the caste certificate issued by the competent authority, he was appointed as Record Assistant in Government Degree College, Rajahmundry. While discharging his duties as such, the respondents had given a complaint that the petitioner does not belong to Konda Reddy community. Thereafter, the

District Collector had cancelled the caste certificate issued in favour of the petitioner *vide* proceedings dated 28-10-98. Hence, the petitioner preferred an appeal before the State Government. The State Government without considering the contentions raised by the petitioner, rejected his case *vide* G.O.Ms.No.50, dated 29-05-2002. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that as per Rule 8 of the A.P. (SC, ST & BCs) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997, the District Collector has to refer the case of the person to the District Level Screening Committee, headed by the Joint Collector, for cancellation of the caste certificate and based on the recommendations made by the District Level Committee, the District Collector has to pass appropriate orders, after affording an opportunity to the person concerned. But, in the instant case, the District Collector has referred the case of the petitioner to the District Level Screening Committee on the ground that the caste certificate issued in favour of the petitioner is prior to promulgation of the A.P (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act'). Learned counsel further contends that Section 21 of the Act clearly states that

even if the certificates, which are to be issued, prior to the commencement of the Act, the District collector is bound to follow the procedure enunciated in the Act. Therefore, cancelling the caste certificate based on the report of the Revenue Divisional Officer and not referring the case of the petitioner to the District Level Screening Committee is arbitrary, illegal and contrary to the Act.

Learned Government Pleader appearing for respondents 1 and 2 contends that since the caste certificate issued by the competent authority is prior to promulgation of the Act, the District Collector has not referred the case of the petitioner to the District Level Screening Committee and moreover, the petitioner had filed W.P.No.1623 of 1990 and the same was disposed of on 24.04.1997. The operative portion of the said order reads as under:

“The District Collector, East Godavari District-1st respondent is therefore directed to give an opportunity of hearing to the petitioner and the petitioner is directed to appear before the District Collector within two weeks from today. On the petitioner appearing before the District Collector, the Collector shall give him a fixed date of hearing and on that date the petitioner shall be heard by the Collector and dispose of the proceedings on merits.”

Learned Government Pleader further contends that based on the said direction, the District Collector has passed the

impugned cancellation order and therefore, no illegality has been committed by the District Collector and the writ petition deserves to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that when this Court *vide* order dated 24.04.1997 in W.P.No.1623 of 1990, directed the District Collector to pass appropriate orders after affording an opportunity to the petitioner, it does not mean that the respondents are not obligated to follow the Act and they are bound to follow the Act. Admittedly, in the instant case, the District Collector has passed the impugned cancellation order without referring the case of the petitioner to the District Level Screening Committee, which is contrary to the Act.

Accordingly, the Writ Petition is allowed and the impugned cancellation proceedings dated 28.10.1998 and the consequential rejection order dated 29-05-2002 are set aside. The respondents are directed to follow the Rules and Regulations framed under the Act and pass appropriate orders, within a period of six months from the date of receipt of a copy of this order, after affording an opportunity to the petitioner. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

18th September, 2018
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