

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3863 of 2019

ORDER :

This writ petition is filed seeking Writ of Certiorari to call for the records relating to and connected with the report bearing Rc.No.B/260/2017, dated 09.01.2019, submitted by respondent No.3 and to quash the same by holding it as illegal and arbitrary.

The petitioner is a Member belonging to Gandla Caste, which falls under BC-B Community at Sl.No.6 in the List of Socially and Educationally Backward Classes. He was initially appointed as a Constable in the Police Department on 18.10.2013 under BC-B quota. The petitioner submits that while he was discharging the duties as Constable, it appears that respondent No.5 has received certain complaints to the effect that the petitioner does not belong to BC-B Community and basing on the said complaints, respondent No.5 had directed respondent No.3 – Tahsildar, Ninnel Mandal, Mancherial District, to conduct an enquiry into the genuineness of the Caste Certificate produced by the petitioner and submit a report. Pursuant to the said direction, respondent No.3, after conducting necessary enquiry had submitted the impugned report dated 09.01.2019 stating that the petitioner belongs to 'Reddy Gandla Caste', which does not come under BC category. Prior to the submission of the said report by respondent No.3,

the petitioner has received a Memorandum of Charge bearing PR.No.A6/07/2018, dated 08.08.2018, from respondent No.5 alleging that the petitioner has produced a false Caste Certificate stating that he belongs to BC-B Community and basing on the strength of such false Caste Certificate, he had secured employment as a Police Constable. Aggrieved by the said report dated 09.01.2019 of respondent No.3, the petitioner has filed the present writ petition.

Heard Sri Karunakar Reddy, learned counsel for the petitioner and the learned Government Pleader for Services-II appearing for the respondents.

Learned counsel for the petitioner submits that as per the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for brevity "the Act"), though the competent authority to cancel the Caste Certificate is the District Collector, so far the District Collector has not initiated any action nor he has constituted any District Level Scrutiny Committee to enquire into the genuineness of the Caste Certificate produced by the petitioner. Learned counsel for the petitioner further submits that Section 21 of the Act clearly states that the Caste Certificate issued under the Act, until and unless it is cancelled by the competent authority, is valid. Admittedly, in the instant case, the competent authority i.e., the District Collector, Mancherial District, has not initiated any

action against the petitioner nor cancelled the Caste Certificate produced by the petitioner. Unless the Caste Certificate issued in favour of the petitioner is cancelled by the competent authority, the respondents cannot initiate any action against the petitioner, more importantly, the respondents cannot initiate any disciplinary proceedings against the petitioner. The learned counsel, therefore, contends that initiation of the disciplinary action against the petitioner vide Charge Memo dated 08.08.2018 and the Enquiry Report dated 09.01.2019 submitted by respondent No.3 are contrary to law and hence, they are liable to be set aside.

On the other hand, the learned Government Pleader for Services contends that as per the provisions of the above said Act, the District Collector is the competent authority to initiate action to cancel the false Caste Certificate issued in favour of the petitioner only after following the due procedure enunciated under the Act.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that issuance of Charge Memo dated 08.08.2018 by respondent No.5 and submission of Enquiry Report dated 09.01.2019 by respondent No.3 are without jurisdiction and liable to be set aside and they are accordingly set aside. However, the respondents are given liberty to initiate disciplinary action against the petitioner in accordance with law

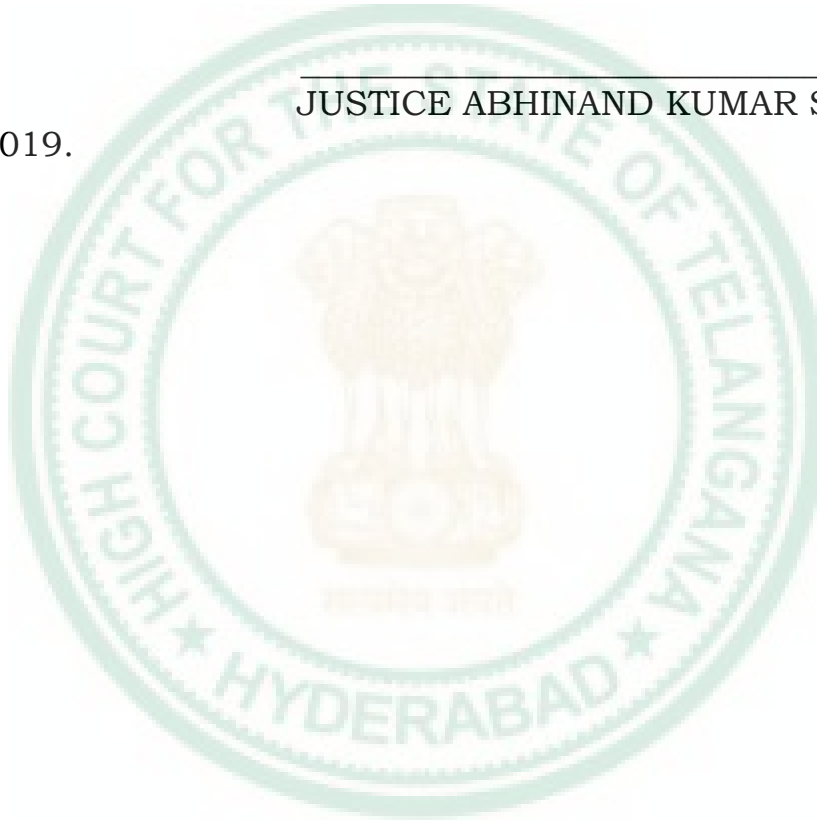
only after respondent No.2 – District Collector, Mancherial District, cancels the Caste Certificate issued in favour of the petitioner.

With the above observations, the writ petition is allowed.
No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

25.02.2019.
Msr

JUSTICE ABHINAND KUMAR SHAVILI



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