

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.18117 OF 2009

ORDER:

The present Writ Petition is filed by the petitioner herein to declare the action of the 1st respondent in issuing Memo No.9583/Vig.III(2)/2009-2, dated 12.06.2009, as being illegal, arbitrary and unconstitutional.

Heard the petitioner, who appeared as party-in-person and learned Government Pleader for Social Welfare.

It is the case of the petitioner that while discharging the functions as Tahsildar/Deputy Collector had issued a caste certificate to one T. Yadagiri vide reference No.A/5683/2005 dated 10.06.2005 which it is now being claimed by the authorities as having been issued without conducting proper enquiry.

The petitioner would further submit that the respondent authority, on the basis of the impugned memo, has initiated departmental enquiry and the petitioner has submitted his reply to the charges framed vide its reply dated 19.08.2009. The petitioner would submit that the impugned memo has been issued by the 1st respondent wherein the name of the petitioner has also been mentioned for initiation of criminal action for issuing false Migration-cum-Caste Certificates. The petitioner claims that the above memo is issued by the 1st respondent authority without putting the petitioner's on notice and merely based on the directions of this Court in W.P. No.10099 of 2002. The petitioner further pleads that since the petitioner has retired from service in

the year 2014, a lenient view may be taken so far as the charges against petitioner is concerned.

Learned Government Pleader on the other hand, would submit that the petitioner upon issuance of memo by the 1st respondent authority according permission to initiate criminal action against the petitioner and others mentioned therein had filed a detailed reply offering his explanation and even before the said explanation is considered by the 1st respondent authority has approached this Court and obtained interim orders of suspension of the impugned memo.

The learned Government Pleader would further submit that on account of suspension of the impugned memo by order of this Court dated 28.08.2009, the respondent authority did not consider the explanation of the petitioner nor pass any orders thereon and would submit that if this Court deems fit, the 1st respondent authority may be directed to consider the representation of the petitioner dated 19.08.2009 and pass orders thereon within a time frame having regard to the pendency of the matter since long.

Having regard to the submissions made by the petitioner in person and the learned Government Pleader for Social Welfare, it is seen that the petitioner has approached this Court being aggrieved by the sanction accorded for initiation of criminal proceedings by the 1st respondent. It is stated that upon enquiry ordered by the Government pursuant to the orders of this Court in W.P. No.10099 of 2002 by appointing a senior officer of the State in the rank of Principal Secretary, wherein, it was found that some of the officers in the Districts of Ranga Reddy and Khammam have falsely issued

Migration-cum-Caste Certificates. It is based on such enquiry report submitted, action is sought to be initiated against the authorities who were involved in such issue of fake Migration-cum-Caste Certificate to its beneficiaries and petitioner is one such officer mentioned in the report.

In so far as the case of the petitioner is concerned, it is alleged that the petitioner has issued caste certificate to one T. Yadagiri which is found to have been issued falsely without proper enquiry. It is contended by the petitioner that the said certificate issued by the petitioner to the said T. Yadagiri was found to be correct by none other than the Collector when a request was made by the State Bank of India when the named person sought employment with the said bank. Having found that the said certificate issued by the petitioner as correct, it is not open to the respondent now to turn around and claim that the petitioner has issued the certificate falsely is the submission of the petitioner.

As can be seen from the papers filed into this Court, the petitioner upon issuance of the impugned memo has submitted his explanation to the 1st respondent authority on 19.08.2009 and within ten days thereafter obtained interim orders from this Court whereby the proceedings have been suspended. Since, the petitioner has offered his explanation to the charges that are made against him for initiating disciplinary action and also the sanction of prosecution by the 1st respondent which as stated by the learned Government Pleader is pending consideration and no orders thereon were passed on account of the interim orders of this Court, this Court is of the view that the 1st respondent be directed to

consider and dispose off the explanation offered by the petitioner vide its letter dated 19.08.2009, by vacating the interim order granted on 28.08.2009.

In the circumstances, this Court is of the view as to whether such certificate has been issued by the petitioner without conducting proper enquiry or otherwise should not be gone into by this Court, as any view expressed would influence the decision making process of the authorities and it is best left open to the authorities concerned who would have the benefit of perusing the record to arrive at a correct conclusion on the charges framed against the petitioner.

Accordingly, the Writ Petition is disposed of with a direction to the 1st respondent to consider the representation of the petitioner dated 19.08.2009 and pass orders in accordance with law. Having regard to the pendency of the matter for a decade now, the 1st respondent authority shall endeavour to dispose of the same as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. It is made clear that before passing of any orders, the 1st respondent shall afford the petitioner with an opportunity of filing any further submissions that the petitioner wishes to make and also after affording an opportunity of hearing to the petitioner. While adjudicating into the representation of the petitioner dated 19.08.2009 and any further representations that may be made here after, the 1st respondent authority may take into consideration the fact that the petitioner has since retired from

service in the year 2014, whether a lenient view can be taken in the matter.

Subject to the above direction and observation, the Writ Petition is disposed of. No order as to costs.

As a sequel, the miscellaneous petitions, if any, pending shall stand closed.

T. VINOD KUMAR, J

Date: 17.12.2019.

MRKR

