

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN**  
**AND**  
**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT APPEAL No.1682 of 2018**

**JUDGMENT:** (Per the Hon'ble the Chief Justice Sri Thottathil B.Radhakrishnan)

This Writ Appeal is filed by the State.

2. We have heard the learned counsel for the appellants and the learned counsel appearing for the respondent.

3. The respondent, then aged 25 years, moved this Court in 2018 by filing a Writ Petition pleading that she was eligible to be appointed following the selection to the post of Secondary Grade Teacher in the agency area of Mahaboobnagar District on par with the other selected candidates for the DSC-2012 and also for consequential benefits, including seniority, monetary and other benefits.

4. Learned single Judge noted that there is no dispute as to the fact that the writ petitioner belongs to Lambada community which is listed as the Scheduled Tribe community in the State of Telangana. A certificate, dated 08.12.2017, was also issued to the writ petitioner under the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993, certifying that she belongs to Lambada (ST) community. The learned single Judge also noticed that there is no dispute that the said community is recognized as a Scheduled Tribe under the Constitution (Scheduled Tribes) order, 1950, as well.

5. It appears that in 2012, W.P.No.25344 of 2012 was filed by the District Chenchu Seva Sangham, Mahaboobnagar District, seeking to declare that Chenchu Tribe people only are entitled to Scheduled Tribe Agency Area Tribe classification. That Writ Petition was filed also seeking a direction to the official respondents therein not to issue any Scheduled Agency Area Certificates, except to the persons belonging to Chenchu Tribe. The said Writ Petition was ultimately dismissed on 19.07.2017 after the Writ Petition was contested even by the State Government officials. The case of the writ petitioner was that in spite of dismissal of that Writ Petition, she was not being appointed into her due slot.

6. The contention raised by the official respondents, who are the appellants before us, was that the selection process had concluded in terms of the applicable rules and regulations and the original certificates for verification ought to have been produced as and when required by the competent authority and that, non-submission of certificates, memo of marks pertaining to minimum qualification, local or non-local certificates etc., will entail the application to be rejected.

7. The learned single Judge has taken the view that since the writ petitioner has been able to obtain certificate on 08.12.2017 i.e., following the dismissal of W.P.No.25344 of 2012 on 19.07.2017, it is a case where the petitioner's caste status is not

and cannot be disputed and, therefore, she is eligible to the support of reservation available to her on that count.

8. Certification as to status of belonging to a community either as a Scheduled Caste member or a Scheduled Tribe member or belonging to a particular area is a question of fact for which such certificates issued by the competent authority under the Act referred to above and similar enactments have been treated as conclusive proof. Such certification does not operate as if the certification as to caste status becomes operational only from the date of certification. It is the certification of an existing fact that a particular person belongs to a particular community, which is either Scheduled Caste community or a Scheduled Tribe community. Therefore, the issuance of the caste certificate by the competent authority clearly demonstrates that the writ petitioner had been and is a member of a Scheduled Tribe.

9. Therefore, the question will be as to whether the writ petitioner ought to have been deprived of the fruits of labour in contesting competitive selection process merely on account of the fact that the certificate was not issued to her at an earlier point of time.

10. For one thing, the non-issuance of certificate is itself the result of a pending litigation at the community level and the Writ Petition was disposed of by the High Court only later on. Secondly, the writ petitioner, a female, belongs to a socially

challenged sector having been identified as belonging to Scheduled Tribe.

11. The question whether a candidate who appears in an examination under a particular category and submits the certificate as to eligibility under that category after the last date mentioned in the advertisement, is eligible for consideration to the post under that category, was answered in the affirmative by the Hon'ble Supreme Court of India in **Ram Kumar Gijroya v. Delhi Subordinate Services Selection**<sup>1</sup>. This issue also, therefore, deserves to be answered only in favour of the respondent/writ petitioner.

12. The learned single Judge has exercised the discretionary writ jurisdiction in her favour and has directed her to be appointed. We do not find any jurisdictional infirmity, illegality, irregularity or impropriety in the exercise of such discretionary jurisdiction by the learned single Judge. We, therefore, decline to interfere with the impugned order to that extent.

13. However, the impugned order of the learned single Judge further proceeds directing that such appointment should be effected with all consequential benefits including seniority and monetary benefits. For one thing, the writ petitioner came to this Court claiming that she was eligible to be appointed along with other selected persons following the selection process. Obviously, therefore, it was an admitted fact situation that the

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<sup>1</sup> (2016) 4 SCC 754

other selected persons were already serving the establishment. Even without any of those persons being on the array of parties as respondents, the eligibility or otherwise of the writ petitioner as to seniority was not an issue which could have been deliberated and decided by the learned single Judge in the Writ Petition. The direction to give her due seniority also does not stand, because it is not the case of deprivation of the appointment as against a particular slot which was put to adjudication with the junction of all parties concerned, including those who are already employed following the selection in DSC-2012. Insofar as consequential benefits and monetary benefits are concerned, it needs to be noted that the writ petitioner had not contributed any labour to the establishment and would be able to do that only upon being appointed. The eligibility to be appointed does not spring merely on account of being included in a selected list. Therefore, the eligibility of monetary benefits relating back to the date on which she would have been appointed is not a relief that would come to the writ petitioner through this litigation. She is not eligible for such relief.

14. The learned single Judge has also imposed an order for costs. In the normal circumstances, an order for costs issued in a writ jurisdiction would not be interfered with through an intra-Court appellate exercise. However, the situation obtained as a result of the institutional and pendency of Writ Petition by the District Chenchu Seva Sangham and the interim order issued in

that Writ Petition is not the making of the Government. It is the fundamental principle that, act of Court shall prejudice none. This includes Government as an establishment as well. Therefore, on that totality of the facts and circumstances, imposition of costs in the case on hand is unsustainable.

15. For the aforesaid reasons, this Writ Appeal is partly allowed vacating the direction to grant writ petitioner consequential benefits, including seniority and monetary benefits, and also directing the first respondent in the Writ Petition to pay costs of Rs.5,000/- (Rupees five thousand only) as costs to the writ petitioner. The direction to appoint the writ petitioner as Secondary Grade Teacher (SGT) in the Agency Area of Mahaboobnagar District forthwith is affirmed. Therefore, we direct that the order of appointment that will be issued consequent to the direction of the learned single Judge will be issued with effect from 08.03.2018 i.e., the date of the impugned order rendered by the learned single Judge, with monetary benefits from today. However, the period from 08.03.2018 will be counted for all other purposes like calculating length of service.

16. As we part with this case, it occurs to us that we are delivering this judgment on 08.03.2019 and directing the benefit of the judgment to operate from 08.03.2018, both of which are days which are celebrated as "International Women's

Day” relating to empowerment of women and the writ petitioner/respondent herein is a woman.

The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

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**THOTTATHIL B. RADHAKRISHNAN, CJ**

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**A.RAJASHEKER REDDY, J**

08.03.2019  
vs

