

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.9604 of 2000

ORDER:

The petitioners were granted caste certificates at various points of time to the effect that they belong to Kodakapu community. All of them hail from Thimmapuram of Addateegala Mandal, East Godavari District. On complaints received to the effect that the petitioners do not belong to Scheduled Tribe community, the Revenue Divisional Officer, Rampachodavaram initiated enquiry and cancelled their caste certificates, *vide* proceedings, dated 03.11.1988. The petitioners filed W.P.No.6409 of 1990, raising certain objection to the said proceedings. The writ petition was allowed and the matter was remanded to the authorities concerned, for fresh enquiry. Thereafter, the proceedings were taken up by the District Collector, the second respondent herein, by issuing a show cause notice on 23.05.1997, in exercise of the powers under the A.P (Scheduled Caste, Scheduled Tribe & Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act') and the Rules made thereunder. The petitioners submitted their explanations and appeared before the second respondent, through an Advocate. As required under the Act and the Rules made thereunder, the District Level Scrutiny Committee had undertaken enquiry into the matter and submitted its report. After hearing the parties at length and after taking into account the report submitted by the District Level Scrutiny Committee, the second respondent passed an order,

dated 28.10.2000, directing cancellation of the caste certificates issued to the petitioners. The appeal preferred by the petitioners before the first respondent was also dismissed, through orders in G.O.Ms.No.101 Social Welfare (CV.2) Department, dated 29.10.2001. The same is challenged in this writ petition.

Sri Ch.Dhanamjaya, the learned counsel for the petitioners, submits that the ancestors of the petitioners have been enjoying the social status of Scheduled Tribe on the basis of the certificates issued from time to time and the Sub-Collector has cancelled the caste certificates on the basis of the surmises and assumptions. He contends that the repeated request made on behalf of the petitioners to summon certain records from the Office of the Mandal Revenue Officer was not acceded to. The learned counsel also submits that once the petitioners had an origin in Kodakapu community, the mere fact that the individuals have married the persons outside the caste, does not make any difference. He submits that the Appellate Authority did not undertake any discussion, worth its name, and reduced the remedy of appeal into an empty formality.

The learned Government Pleader for Social Welfare, on the other hand, submits that the petitioners miserably failed to prove their social status in the detailed enquiry conducted for almost a decade. He contends that in a sale deed executed in favour of Sri Subba Rao, the father of petitioners 1 and 2, the caste was mentioned as 'Vysya' way back in the year 1932 and in the subsequent documents and registers, their community was either mentioned as Kapu or Turpukapu. He further contends that the

petitioners have misled the authorities and obtained the certificates by playing fraud. The learned Government Pleader also submits that ample opportunity was given to the petitioners during the course of prolonged enquiry and no irregularity has crept into the matter, either on facts or in law.

Petitioners 1 and 2 are brothers and sons of one Sri Vemuri Subba Rao. Petitioners 3, 4 and 5 are sons of the first petitioner. It is not in dispute that their native place is Thimmapuram Village of Addateegala Mandal, East Godavari District, which is in the agency area. On a request made by them, the caste certificates were issued in the years 1973, 1976, 1983 and 1984, certifying that they belong to Kodakapu community, which is a Scheduled Tribe. Proceedings were initiated against the petitioners for cancellation of the caste certificates, on receiving certain complaints. Initially, the Revenue Divisional Officer, Rampachodavaram cancelled the caste certificates of the petitioners, through his orders, dated 03.11.1988. The said order was set aside by this Court and the matter was remanded. By the time the proceedings were resumed, the Act and the Rules made thereunder came into existence. Therefore, a detailed procedure prescribed thereunder was followed and the District Level Scrutiny Committee submitted its report stating that the petitioners do not belong to Kondakapu community.

Without restricting his consideration to the report of the District Level Scrutiny Committee, the second respondent himself examined the matter in detail. He made copious reference to the genealogical particulars and marital relations of the petitioners, in

detail. Reference was also made to the entries in the Birth and Death records as well as the school records. The validity of the previous community certificates was also considered.

It is a matter of record that the caste of the father of petitioners 1 and 2 was shown as 'Vysya' in a registered sale deed, dated 17.02.1943. The caste of several persons with 'Vemuri' surname from the same village was mentioned as 'Kapu' in the Birth Registers maintained in the years 1939, 1951, 1951 and 1953. The entries in the school records were also found to be on the same lines.

The Act and the Rules mandate that the social status of the Scheduled Tribes must be determined mostly on the basis of the spot verification and existing practices in the families. Obviously for this reason, the second respondent conducted an open enquiry in the village. In one voice, the villagers stated that the petitioners and their family belong to Turpukapu community. Petitioners 1 and 2 have claimed that they belonged to Kapu community. None of the petitioners have claimed the status of Kondakapu, much less they have substantiate their claim. It has also come on record that all the petitioners are married to the persons, who do not belong to Kondakapu community. Marriages were with the persons of Kapu or Turupukapu from the planes with such preponderance of evidence to suggest that the petitioners do not belong to Kondakapu. Hence, this Court is not inclined to interfere with the impugned order.

Accordingly, the writ petition is dismissed.

It is stated that petitioners 3 and 5 are employed on the

basis of the certificates, against the vacancies earmarked for Scheduled Tribes. If that be so, it is directed that they shall be continued in the post at its initial stage and they shall not be entitled for any promotions, including the one, which has been ordered.

There shall be no order as to costs.

**L.NARASIMHA
REDDY,J**

Dt:19.12.2008

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