
(2002) 09 AP CK 0043
In the Andhra Pradesh High Court
Case No : WA No. 1431 of 2002

Divakar Sahu

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 16-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 6 ALD 232

Hon'ble Judges : Ar. Lakshmanan, C.J;V. Eswaraiah, J

Bench : Division Bench

Advocate : Vedula Srinivas, for the Appellant; Government Pleader for Social Welfare, for Respondent Nos. 1 and 3 and K. Srinivasa Murthy, for the Respondent

Final Decision : Allowed

Judgement

A.R. Lakshmanan, C.J.—By order dated 13.4.2002, the Collector and District Magistrate, Srikakulam the 1st respondent herein, in Rc.No. 1200/9/CI, cancelled the Caste Certificate of the appellant herein and declared that the appellant does not belong to Scheduled Tribe Community. Challenging the said order, the appellant filed WP 8440 of 2002 seeking to set aside the said order. A learned single Judge of this Court, Shri Ramanujam, J., while disposing of the said writ petition by order dated 26th April, 2002 observed as follows:

Undisputedly, an appeal lies against the impugned order to the Government u/s 7 of the Act. Without exhausting that remedy of appeal under the statute, the petitioner directly approached this Court by filing the present writ petition. In normal course, I would have dismissed this writ petition as not maintainable. But, the learned Counsel for the petitioner strenuously contended that the cancellation order was issued in utter violation of principles of natural justice, I am of the considered view that the said plea also can be raised before the appellate authority.

Considering the facts and circumstances of the case, I deem it appropriate to

dispose of this writ petition permitting the petitioner to file an appeal against the impugned order before the appellate authority within a period of three weeks from today. Along with that appeal, the petitioner can also file an application seeking stay of the operation of the impugned order. On such appeal and stay application being filed, the appellate authority shall consider and dispose of the stay application within a period of two weeks therefrom."

2. Pursuant to the orders of the learned single Judge, the appellant herein filed the appeal before the 3rd respondent-Government along with a stay application, Since the stay application was not disposed of as per the directions of this Court by the appellate authority viz., the Government, the appellant herein, again filed W.P. No. 16140 of 2002 which was again disposed of by another learned single Judge on 28th August, 2002 observing as follows:

"Without going into the merits or otherwise of the matter, evidently, it is the case of the petitioner that along with the appeal he has preferred an interlocutory application seeking stay of the impugned proceedings, pending appeal. It is for the petitioner to get an interlocutory order from the appellate authority, as directed by this Court in earlier proceedings. Therefore, I do not see any reason to entertain the writ petition. The writ petition accordingly fails and is dismissed."

3. The learned single Judge passed this order on 28th August, 2002. Even though the time stipulated in the order dated 26.4.2002 passed in WP No.8440 of 2002 by this Court has expired, the 3rd respondent not disposed of the stay application as directed by the learned judge Shri Ramanujam, J. In view of the conduct of the 3rd respondent, we have no other option except to grant stay of the operation of the order dated 13.4.2002 passed by the Collector and District Magistrate, Srikakulam in Rc.No. 1200/9/CI pending disposal of the stay petition. We now direct the 3rd respondent to dispose of the stay petition first and then dispose of the appeal later. There will be stay of the order dated 13.4.2002 passed by the Collector and District Magistrate, Srikakulam in Rc.No. 1200/9/CI for a period of four weeks from today.

4. The appeal stands allowed accordingly.