

(1995) 07 AP CK 0034

In the Andhra Pradesh High Court

Case No : Writ Petition No. 14375 of 1995

Dr. M. Subbaiah, representing his minor daughter, Kum. M. Jyothi

APPELLANT

Vs

The Commissioner, Tribal Welfare Department and Another

RESPONDENT

Date of Decision : 12-07-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1995) 2 ALT 593

Hon'ble Judges : Motilal B. Naik, J

Bench : Single Bench

Advocate : M.V. Durga Prasad, for the Appellant; Govt. Pleader for Social Welfare for Respondent No. 1 and R. Subhash Reddy, for the Respondent

Final Decision : Dismissed

Judgement

Motilal B. Naik, J.—Petitioner is the father of minor girl Kum. M. Jyothi who seems to have appeared for the E AM CET-95 and has secured a rank of 2628. Petitioner claims that he is a member of Yanadi community which is recognised as Scheduled Tribe in the State of Andhra Pradesh. He states that his eldest daughter Kum. Sunitha appeared in EAMCET-92 and secured a seat in Osmania Medical College in Hyderabad and is studying her 4th year in MBBS Course. As per the requirement of the rules, the petitioner stated to have approached the first respondent for clearing the social status of the petitioner. He seems to have filed certain documents which would justify his claim to be a member of Scheduled Tribe. When he found certain difficulties, he approached this Court by way of a Writ Petition No. 675 of 1993 and this Court while admitting the writ petition on 28-1-1993 seems to have passed an order to the effect that the petitioner's eldest daughter to admitted in the I year MBBS Course without insisting the clearance certificate from the first respondent. On the basis of the said interim order, the petitioner's eldest daughter Kum. Sunitha has been admitted into MBBS I Year in Osmania Medical College and is now studying her

fourth year. However, it is stated, the said Writ Petition No. 675 /93 is still pending on the file of this Court.

2. While so, the petitioner's second daughter Kum. Jyothi seems to have appeared for EAMCET-94 with Hall Ticket No. 118068 seeking admission into Engineering Course and obtained a rank of 9805. It is stated that since the clearance from the first respondent is required as to her social status claim, the petitioner seems to have approached the first respondent on 5-5-1994. The office of the first respondent seems to have issued a Memo on 5-5-1994 directing the petitioner to produce documentary and oral evidence on 13-5-1994 at 11.00 A.M. Petitioner states that though he appeared on the said day, no order and have been passed so far with the result, his second daughter lost one year. The Petitioner's second daughter got interview call from the second respondent on 25 3-8-1994 around 9.00 A.M. Accordingly, the petitioner along with his second daughter approached the second respondent to participate in the interview. Petitioner states that when the interview was about to take place, the staff of the first respondent served the memo bearing No.Rc.No.3520/94/TRI/VC-2, dated 3-8-1994 on the petitioner and prevented his second daughter from appearing the interview. It is further stated that the petitioner's first daughter submitted her application along with the caste certificate issued by M.R.O., Balanagar and therefore, normally, the first respondent should have accepted their social status.

3. However, the petitioner's second daughter again appeared in the EAMCET-95 for admission into Engineering Course and secured a rank of 2628. Her interview was scheduled on 11-7-1995 around 9.30 A.M. Petitioner apprehends that the respondent No. 1 may again prevent the petitioner's second daughter Kum. M. Jyothi from obtaining admission in Engineering faculty against S.T. quota, and therefore, the petitioner is before this Court seeking a mandamus declaring that the petitioner's second daughter Kum. M. Jyothi is entitled to be considered for admission in Engineering Course in S.T. quota pursuant to the results of EAMCET-95 and seeks a further direction to the second respondent not to insist for clearance of her social status for the purpose of admission.

4. The petitioner has sought two reliefs in this writ petition, viz.,

(1) to issue a mandamus declaring that the petitioner's second daughter Kum. M. Jyothi is entitled to be considered for a seat in engineering faculty under S.T. category; and

(2) to direct the second respondent not to insist for clearance of the social status of Kum. M. Jyothi for the purpose of her admission in engineering faculty pursuant to EAMCET-95 from the first respondent.

5. Insofar as the first relief is concerned, petitioner wants this Court to declare that his daughter is entitled to be treated as an S.T. candidate. It is seen from the averments made by the petitioner, his eldest daughter Kum. Sunitha who appeared in E AMCET-92 found some difficulty in getting her social status cleared from the first respondent, has approached this Court by way of a Writ Petition

No. 675/93 and obtained an interim direction on 28-1-1993 with the result, she was granted admission in the MBBS course in a seat reserved for S.T. candidates. Petitioner is now making another effort to get similar directions from this Court through this Writ Petition without subjecting his second daughter also for enquiry to clear her claim of social status and wants this Court to issue a direction that she should be declared as to be a member of Scheduled Tribe and is entitled for a seat in S.T. Category.

6. It may be true, the petitioner has found some difficulties in getting his social status claim cleared from the first respondent. This Court is aware of the fact that special provisions have been incorporated in the Constitution providing reservations for Scheduled Castes and Scheduled Tribes. This is intended to uplift these sections, so that they could also be brought into the mainstream of the society. The rights guaranteed to these Scheduled Castes and Scheduled Tribes are to be ensured, it is necessary that any claim made in this regard has to be verified so that bonafide claimants could be benefitted.

7. Experience shows that fictitious persons in the guise of Scheduled Castes and Scheduled Tribes, have knocked away a major chunk of Government jobs and also seats meant for genuine Scheduled Castes and Scheduled Tribes candidates in educational institutions. In this background, necessary rules have been framed by various Governments for providing a procedure to be followed while issuing social status claim certificates. A definite procedure has also been incorporated under the EAMCET Rules for admission into professional courses, the requirement of such rules is that a person who claims to be a member of Scheduled Caste or Scheduled Tribe or Backward Class, he has to necessarily obtain clearance of his/her social status claim from the concerned Directorate. This is meant to ensure that genuine Scheduled Caste, Scheduled Tribe and Backward Class persons get the benefits as enshrined in the Constitution.

8. The petitioner who is before this Court, has approached this Court on an earlier occasion and obtained an order and got his eldest daughter admitted in MBBS Course under ST category in Osmania Medical College, without there being any enquiry regarding her social status. This Court is not aware whether the enquiry has been completed or not. In the enquiry, if it is found that the petitioner is not a member of Scheduled Tribe, his children are not entitled to claim seats under S.T. quota. The seat which is granted to his eldest daughter by this Court in an interlocutory application in W.P.M.P. No. 845/93 in W.P. No. 675 / 93, the petitioner's eldest daughter has robbed that seat from a genuine Scheduled Tribe Candidate. Even according to the petitioner, his eldest daughter's social status claim is not cleared by the first respondent for the past three years.

9. The petitioner should have made efforts to participate in the enquiry before the first respondent and should have tried to get his social status cleared. Instead of making himself available before the first respondent for enquiry, the petitioner with certain allegations, approached this Court and has been

successful in getting an order in his favour. Probably, the earlier interim order in W.P. No. 675/93 in his favour seems to have induced the petitioner to again approach this Court to seek another order. Probably, the petitioner has found that to get an order from the High Court is much easier than to get his social status cleared from the first respondent who is the competent authority for clearing social status claims.

10. Under this background, is this Court justified in declaring that the petitioner's second daughter Kum. M. Jyothi is entitled to a seat in the engineering faculty pursuant to E AMCET-95, under S.T. quota? It is interesting to note that the first respondent served a Memo dated 3-8-1994 on the same day, on the second daughter of the petitioner. But for the reasons best known to the petitioner, he has not filed the said Memo dated 3-8-1994 issued by the first respondent, so that this Court could have known the contents of the said memo. I am of the opinion, this Court, under Article 226 is not justified to issue a declaration that the petitioner's second daughter is entitled to be considered for a seat in Engineering faculty under S.T. quota. Accordingly, the first relief is rejected.

11. Coming to the second relief sought in this writ petition, i.e., to direct the second respondent to admit the petitioner's second daughter without insisting her to clear her social status, as discussed by me in the above paras, the rules contemplated for the purpose of admission in professional courses, candidates belonging to or claiming to be of Scheduled Castes, Scheduled Tribes and Backward Classes are required to get their claims cleared by the respective Directorates i.e., Directorate of Social Welfare, Directorate of Tribal Welfare and Directorate of B.C. Welfare.

12. The insistence of the rule that the social status claims of candidates who claim themselves to be of Scheduled Caste, Scheduled Tribe and Backward Classes and their claim to admission into professional courses under such quota, had fallen for consideration before this Court in several writ petitions. This Court on various occasions considered the provisions made under admission rules, has held that the rules are valid and the findings of the respective Directorates on the claim of Social Status is binding on the candidates who obtain seats in professional courses on the basis of their social status claims. Any seats obtained in the professional courses are only provisional. As long as the social status claims are not cleared, candidates are not entitled to run away with the booty. This Court had an occasion to deal with a matter arising out of similar contingency in Writ Petition No. 4243 of 1995 dated 20-3-1995 in B. Seenaiah Vs. Health University, Vijayawada and others, . and considered the entire gamut of the powers of the respective Directorates and the binding nature of their findings on the candidates' social status. In that case, I had held that on the basis of social status claim by a candidate who obtained seat in the professional course under reserved category, is bound to obtain clearance from the respective Directorate. Since these rules are framed to eliminate fictitious claims, I am

afraid, this Court cannot issue a direction to the second respondent to permit the petitioner's second daughter Kum. M. Jyothi to grant her a seat in Engineering faculty without insisting clearance of her social status from the first respondent. The petitioner has found, I repeat, that obtaining an order from this Court is easier to him than approaching the first respondent in getting his social status claim cleared and therefore, he is up again by way of this writ petition before this Court.

13. In *B. Seenaiiah Vs. Health University, Vijayawada and others*, . had categorically held that based on unfounded sympathies, granting interim order in favour of a person whose social status claim is not cleared by the concerned Directorate, has the effect of depriving a genuine claimant a seat against reserved category. In the enquiry, if it is found that the claim of the candidate as to be a member of Scheduled Caste/Scheduled Tribe /Backward Class is false, the trickster who got admission pursuant to interim order of this Court would laughing run away with the benefit granted to him by this Court. In such a situation, it would be hard to remedy the genuine person who lost his valuable right. In this view of the matter, I am afraid, this Court cannot issue a direction to the second respondent to ignore the first respondent and grant admission to the petitioner's second daughter Kum. M. Jyothi in Engineering faculty.

14. The petitioner shall bear in mind that too much of litigation for the purpose of initial advantage obtained by virtue of the Court orders without there being a finality as to the claim of social status, he would be meddling with the lives not only of his daughters but also with that of the genuine claimants.

15. This Court has come across numerous instances where enquiries are proposed in doubtful cases, such members who are under cloud, do not cooperate with the enquiring authorities. On the contrary, approach the Courts, make false statements before the Courts and try to evoke unfounded sympathies and at times hyjack the Courts also. The petitioner shall approach the first respondent, furnish necessary documents in support of his social status claim to be a member of S.T., the first respondent shall conduct the enquiry if necessary within a reasonable time and intimate the results of such enquiry to all concerned. It is however, made clear that the petitioner shall co-operate with the enquiry authorities and furnish the necessary particulars as required by such authorities. As long as the claim of the social status of the petitioner's daughters are not cleared by the first respondent, the academic future of the petitioner's two daughters would be in jeopardy. The complaint of the petitioner is that the social status claim of his eldest daughter is not yet cleared by the first respondent. The petitioner has filed W.P. No. 675/93 on behalf of his eldest daughter Kum. M. Sunitha, this Court has granted an interim order in W.P.M.P. No. 845/93 on 28-1-1993, pursuant to which, the said Sunitha is stated to be studying her IV Year MBBS Course. The first respondent is directed to take steps immediately and complete the enquiry if not already completed and intimate result of the said enquiry through the Government Pleader to this Court in

W.P.M.P. No. 845/93 in W.P. No. 675/93.

16. Having regard to the above discussion, I do not find any merits in the writ petition and the same is accordingly dismissed.

17. Office to send a copy of this order to the first respondent immediately.