

(1992) 09 AP CK 0017

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8440 of 1992

Dr. R. Uma Devi

APPELLANT

Vs

The Principal, Kurnool Medical College, Kurnool and others

RESPONDENT

Date of Decision : 28-09-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1993 AP 38 : (1992) 3 ALT 682

Hon'ble Judges : Subhashan Reddy, J

Bench : Single Bench

Advocate : Mr. B. Siva Reddy, for the Appellant; Mr. R. Ramajunam, M/s. B. Nageswara Rao and K. Bhaskara Rao, for the Respondent

Judgement

Subhashan Reddy, J. 1. At issue, in this writ petition is as to whether the petitioner who was born in a Vysya caste, which is a forward community retains her social status as such even after marriage to a person of different caste.

2. In the instant case, the petitioner; though a Vysya by birth and was admitted into M.B.B.S. course under open category as at that time she was unmarried, after marriage to a person belonging to Besta (Fishermen) community which is a B.C. "A" category has sought for admission into Post-Graduate Medical course (D.G.H) mentioning her social status as B.C. "A" category as that of her husband and the same was granted and she had also paid the necessary fee in that regard. The petitioner had secured 153 marks and was assigned 67th rank. She did not misrepresent anything and has stated that she is a B.C. "A" candidate as her husband was from a Besta caste. After admission, by proceedings dated 1-7-1992 she was issued with a notice proposing to cancel her selection on the ground that she belongs to open category on the basis of her father's caste and does not belong to B.C. "A" category, even though her husband is from B.C. "A" category. After cancellation of her seat, the same is sought to be given to the third respondent, who also claims from B.C. "A" category and is supporting the action of respondents 1 and 2 in seeking to cancel the admission which was

granted to the petitioner herein.

3. It is pertinent to mention that while the petitioner had secured 67th rank, the third respondent had secured 85th rank. Taking caste-wise consideration, it is needless to mention that the petitioner's selection into the course is an automatic choice and that was what was done. But the same is sought to be taken away on the ground that still her social status is to be reckoned only on the basis of her father's caste and not that of her husband's. In the counter-affidavits filed on behalf of respondents 1 and 2 as also the third respondent herein, it is stated and reiterated that, irrespective of marriage of the petitioner to a person: belonging to "Besta" community which Comes within the category of B.C. "A", she is governed by her father's caste, and as such her admission is liable to be cancelled. They also base their contention on executive instructions of the Government of India and the interpretation of a Government order issued by the Government of Andhra Pradesh during 1976 stating that only offsprings born of inter-caste marriages are entitled to opt for status of either of the parents and that it is not extended to a woman belonging to forward caste who marries a person belonging to backward class.

4. I reject the stand taken by the respondents herein and accept the contention of the petitioner that after marriage, she comes within the fold of her husband's caste for the reasons mentioned infra :

5. Hindu marriage is not an agreement. It is a "Samskara" and is a sacrament. On marriage, the wife passes into the dominion of her husband. She goes, and stays with her husband and he becomes her custodia legis. After her marriage, she is no more a member of her parents family and becomes part and parcel of her husband's family. She becomes a thread with which husband's family fabric is woven. Husband's entitlement requiring his wife to live in his house from the moment of the marriage is well recognised under Hindu law. A wife cannot refuse this obligation. The wife, a Binnagotri at the time of marriage, enters into her husband's "gotra" on her marriage and becomes a "sagotri" of her husband, as she is treated as part and parcel of her husband. She is a member of family unit of her husband for computation of holdings in reforms laws. After marriage, she is always referred to and called as wife of.....and not addressed as daughter of.....

6. Inter-caste marriage which were taboo in the good old days are encouraged and welcomed in these modern days. In fact, they are rewarded by providing incentives. When the intercaste marriages are not thus barred and on the other hand are lauded and the wife ceases to be a member of her parents and becomes part and parcel of her husband, it is understandable as to how the wife cannot be permitted to claim as not belonging to her husband's caste. The stand taken by the respondents is reprehensible and cannot be countenanced, it is not as if the marriage of the petitioner with her husband is a mock marriage. That is not the claim. It may be in cases of mock marriages or mock adoptions only to achieve an object of getting some benefits under the colour of change of

social status, then the same may be impermissible, but not in a genuine case like this. There is not even an iota of allegation that the petitioner married a lower caste man only for reaping any benefit.

7. In the circumstances, this writ petition is allowed and the Rule issued is made absolute, and thus the petitioner is declared as belonging to B.C. "A" category with entitlement of all attendant benefits thereof. No order as to costs.

8. Petition allowed.