

(1990) 06 KAR CK 0043
In the Karnataka High Court
Case No : W.P. Nos. 1488 and 1489/82

K. Mallappa and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 12-06-1990

Acts Referred:

Constitution of India, 1950 — Article 16(4)

Citation : (1990) 2 KarLJ 149

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-The petitioners are aggrieved because respondent-2 in response to the applications of the petitioners for grant of Caste Certificate issued an endorsement stating that "Nayaka" community cannot be considered as Scheduled Tribe under Government Circular No. SWL 264 SET 81 dated 24-6-1981. The petitioners are further aggrieved because respondent-2 cancelled the certificate dated 24-8-1981. According to the petitioners, the circulars Annexures "D" and "E" issued by the Government of Karnataka are illegal and so also the endorsement under Annexure-C declining the issue of Caste Certificate to the petitioners.

2. The endorsement reads as follows:

"Sri K. Mallappa, Ravi Nilaya, Tilak Nagar, Shimoga is hereby endorsed that his request for issuing the S.T. Caste certificate for "Nayaka Caste" cannot be considered as he has not satisfied the requirements of Government Circular No. SWL 264 SET 81 Bangalore, dated 24-6-1981. The S.T. Certificate already issued to him on 24-8-1981 is hereby cancelled in view of the G.O. No. SWL 104 dated 1-9-1981."

3. By examining the endorsement issued by the Tahsildar, I do not find any element of arbitrariness. But, on the other hand, I find that the Tahsildar has applied his mind and formed an opinion after bearing in mind the guidelines provided by the Government of Karnataka in its circulars under Annexures "D" and "E". In fact, Annexure-E is a clarification issued by the State Government

regarding "Nayaka" community. It cannot be said that the refusal to issue Scheduled Tribe Certificate to the petitioners who belong to Nayaka community is unsupported by reasons and is arbitrary. Hence, I cannot find fault with Annexure-C and the writ petitions fail in so far as Annexure-C is concerned.

4. Annexure-D is a circular issued by the State Government offering guidelines to the officers who are empowered to issue Caste Certificates and especially the Tahsildars calling upon them to scrutinise very carefully claims for issue of Caste Certificates in respect of Scheduled Tribes. In fact, this circular commends verification and reliable enquiries before a decision is taken to issue the Caste Certificate. I do not find anything offensive either to reason or to law in Annexure-D to strike it down as illegal. On the other hand, I am of the opinion that it affords light and guidance to the certificate-issuing authorities in the process of decision making for the purpose of issue of Caste Certificates. I also regard the circular as one which prevents arbitrary orders.

5. As regards Annexure-E, the circular is nothing but a clarification issued by the State Government regarding the determination of the question whether a person belongs to Nayaka community and whether Nayaka community is a part of Scheduled Tribes. This clarification was issued because the Director of Social Welfare had reported that Sri Valmiki Vardhaka Sangha, Tumkur, had requested him to recognise the hostel started by them as Scheduled Tribes hostel for the purpose of grants contending that they belong to Nayaka community which finds a place in the list of Scheduled Tribes and had sought clarification whether one of the synonym of the "Beda" of the Backward Tribes i.e. Nayaka which was deleted from the list of Backward Tribes under Government Order dated 23-1-1978 consequent upon the enforcement of the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1976 with effect from 27-7-1977 is to be treated as Scheduled Tribes. Thereafter, by order dated 1-9-1981 the Government after careful examination recognised Nayaka in SI. No. 17 and Naik in SI. No. 16 as Backward Tribes throughout the State of Karnataka. Consequently, the order deleting "Nayaka" from the list of Backward Tribes appended to Government Order dated 23-1-1978 and in Government Order dated 1-5-1979 came to be withdrawn and this clarificatory circular cautioned the authorities empowered, to issue Caste Certificates to verify carefully the claims of the members who claim to belong to Scheduled Tribes and upon satisfying themselves that they manifest tribal characteristics as laid down by the Government of India in circular No. SWL 264 SET 81 dated 24-6-1981 may issue such certificates.

6. I am unable to find any illegality in this circular with which the petitioners are finding fault. I must observe that this circular, on the other hand, is perfectly valid and offers guidance to the officials who are empowered to issue Caste Certificates and eliminates the scope for incongruity. I do not find any substance in the contention of the petitioners that this circular is liable to be struck down as illegal,

7. In the light of the above discussion. I find there is no merit in these writ

petitions and hence they are dismissed.

Writ petitions dismissed.