
(2009) 03 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10099 of 2002

Kallem Chendraiah and Others

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 30-03-2009

Acts Referred:

Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)
Regulation of Issue of Community Certificates Act, 1993 — Section 7(2)

Citation : (2009) 3 ALD 817 : (2009) 3 ALT 414 : (2009) 2 APLJ 124

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : V. Venkataramana, for the Appellant; G.P. for Revenue for Respondent Nos. 1 to 3 and G.P. for Tribal Welfare for Respondent Nos. 4 and 5, for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—Of the 24 petitioners herein, petitioners No. 2, 3, 4, 5, 7, 8, 9, 11, 14, 15, 16, 17 and 24 are aged 35 years, 23 years, 24 years, 19 years, 26 years, 30 years, 19 years, 31 years, 16 years, 14 years, 12 years, 19 years and 32 years, respectively (as on the date of filing of the writ petition, in the year 2002). The petitioners challenge the order of the 1st respondent-District Collector, Khammam dated 25.4.2002 cancelling Migration-cum-Caste Certificates certifying the petitioners as belonging to a Scheduled Tribe (Lingadhari Koya or Koya, as the case may be) issued by the M.R.O., Cherla Mandal and directing initiation of criminal action as per the provisions of the A.P. (SC, ST and BC) Regulation of Issue of Community Certificates Act, 1993 ("the Act") and the relevant Rules of 1997, against the petitioners.

2. The petitioners claim that they belong to the Lingadhari Koya community a Scheduled Tribe and are presently residing in different Mandals of Ranga Reddy District. They claim that in their educational records they are described as belonging to Lingadhari Koya community a Scheduled Tribe. Some of the

petitioners are employed, some are pursuing education. All claim ST status as Lingadhari Koya. The petitioners assert that some officers of the Tribal Welfare Department had suggested that the social status certificates issued by the MRO, Quthbullahpur and Balanagar Mandals would be permanent and final if they obtain Migration Certificates from the MRO, Cherla. On such oral suggestion and as the petitioners assert, with a view to consolidate their social status, they approached the 3rd respondent for a Migration certificate. The 3rd respondent is stated to have caused certain enquiries and issued Migration Certificates dated 27.4.2000 to the several petitioners.

3. The petitioners further assert that the 1st respondent on the basis of a report of the 2nd respondent issued a show cause notice dated 21.9.2000 alleging that the petitioners had obtained false Migration-cum-Caste Certificates and should submit explanation as to why such certificates be not cancelled and the petitioners be not prosecuted for offences under the Act. Claiming that the 3rd respondent had merely issued them a Migration Certificate and not a Caste Certificate and further contending that no proceedings were initiated by the District Collector, RR District for cancellation of the Caste Certificates issued by the MROs, Quthbullahpur and Balanagar, the petitioners assail the impugned order issued by the 1st respondent dated 25.4.2000 cancelling the Migration-cum-Caste Certificate issued by the 3rd respondent.

4. The 1st respondent - District Collector, Khammam, the author of the impugned order has filed a counter affidavit. Apart from the jejune objection to the maintainability of the writ petition on the ground that an alternative statutory remedy of appeal is available, to the State Government under the provisions of Section 7(2) of the Act, the 1st respondent states that the petitioners hail from Quthbullahpur, RR District, but had submitted applications to the MRO, Cherla for issuing Migration Certificates in view of the certificates obtained from different MROs of RR District. They claimed to be natives of Pedamidiseleru village, Cherla Mandal, Khammam District and to have left the village about 35 years back. The MRO, Cherla caused enquiries and issued Migration-cum-Caste Certificate to all the petitioners. On reliable information an enquiry was caused, which revealed that about 30 years ago there was a floating population from various places at the time of construction of Talperu project between Tegada and Cherla. The petitioners are however residents of Hyderabad and Ranga Reddy Districts and did not ever belong to Cherla. They manipulated and contrived representations as though they had migrated from Pedamidiseleru village and obtained fraudulent Migration-cum-Caste Certificates to buttress incompetent caste certificates issued by the MROs of Quthbullahpur and Balanagar Mandals of RR District, is the core refrain in the 1st respondent's counter.

5. On 4.3.2009 this court, on a perusal of the record of the case, directed impleadment of the Chief Secretary to the Government as the 5th respondent to the writ petition. In this order this Court observed, quoting from the counter affidavit of the 1st respondent that the MROs of Quthbullahpur and Balanagar

Mandals of RR District, could not and ought not to have issued ST certificates as there were no Scheduled Areas in their respective jurisdictions and if the petitioners and others had origins in Khammam District in Scheduled Area and belong to ST, they ought to have obtained community certificates from the places of their origin. This Court also observed that it is not clear whether there was any due diligence before the issuance of community certificates to the petitioners by the MROs of Quthbullahpur and Balanagar Mandals. After pointing out that issuance of community certificates certifying individuals as STs without a legitimate entitlement to such certification constitutes a constitutional fraud, detrimental to the interest of the genuine ST candidates, this Court directed the Chief Secretary to cause an inquiry by an official not below the rank of a Principal Secretary to the Government into the aspect whether Lingadhari Koya certificates had been issued by the MROs of Quthbullahpur and Balanagar Mandals of RR District and Cherla Mandal of Khammam District since 2000 and if so under what authority of law and after what degree of due diligence.

6. The 5th respondent has filed a counter affidavit dated 3.3.2009 stating that the MROs are competent to issue ST Certificates to persons belonging to Lingadhari Koya community, but there are no specific instruments - legislative or administrative, authorizing issuance of Migration-cum-Caste Certificates to SC and ST candidates. The Chief Secretary however pleads that there is a convention to issue such certificates to persons who have migrated from their villages to another place after making local enquiries at their original place of abode.

7. The legal basis or authority for such a practice or the power to issue Migration certificates, the Chief Secretary does not wish to share with this court. Be that as it may.

8. The 5th respondent's counter further states that the MRO, Cherla has issued Caste Certificates to 25 individuals since 2000; the MRO, Qutbullahpur has issued 30 caste certificates to Lingadhari Koya STs from 2000; and the MRO, Balanagar issued 2 caste certificates to Lingadhari Koya STs from 2000. It is also admitted that the MRO, Cherla had issued Migration Certificates without any authority, but on verification with the concerned Village Administrative Officer and Mandal Revenue Inspector and on the basis of notarized affidavits submitted by individuals claiming to have migrated from Pedamidisileru village, Cherla Mandal. Curiously the 5th respondent records that the MRO, Cherla followed the due process which was being followed for issuing the certificates. It would appear that in the comprehension of the 5th respondent a repetitive conduct becomes due procedure. A perverse administrative process continued for long does not become a legitimate process. Issuing of a community or a migration certificate has to be authorized by law or an administrative order to specified authorities. Issuing of a community certificate certifying a person as belonging to SC or ST or BC entitles the grantee to affirmative benefits such as public employment and educational opportunities, by way of reservation. Negligent grant of community

certificates or grant of certificates for extraneous reasons would undermine the constitutional purposes for which affirmative action is undertaken by the State. Genuine members of SC, ST and BC communities would be deprived protanto of public employment and educational opportunities if fraudulent certificates are issued to undeserving individuals. The grant of community certificates is therefore a critical administrative process and cannot be depended upon the whims and caprice of a MRO. A community certificate can only be issued after due diligence and not on the basis of an ipse dixit claim of an individual. The assertion by the 5th respondent in Paragraph-6 of the counter that the MROs Qutubullapur and Balanagar Mandals of RR District had issued caste certificates after due process, is therefore an assertion that has no factual basis, and few precedents in a Rule of law regime. The 5th respondent's counter also sets out that disciplinary action has been initiated against certain officers for negligent issuance of Migration-cum-Caste Certificate, which is not directly in issue in this writ petition.

9. The learned Counsel for the petitioner would submit that the MRO, Cherla had merely issued Migration Certificates but not Migration-cum-Caste Certificates and that the cancellation of the certificates by the 1st respondent is incompetent. A copy of what is titled "Migration Certificate" issued by the MRO, Chelra, Khammam has been enclosed to the affidavit of the 5th respondent. Though each certificate is titled a "Migration Certificate", it reads as under:

On the basis of the Certification made by the V A O and Mandal Revenue Inspector, Charla Mandal.

This is to Certify that Sri Kallem Chandraiah s/o Ramaiah R/o. H.O. No. 6-189, Old Bowenpalle, Balanagar Mandal, Ranga Reddy District belongs to (ST.) "Lingadhari Koya" caste, 35 years back he was lived at Pedamidisileru village, Charla Mandal, Khammam district, A.P., and he left the village for his livelihood.

Hence, This Certificate.

10. On a true analysis of the language employed in the certificate the conclusion is irresistible that though titled a Migration Certificate, it is in effect a certification of the ST community status of the grantee as well as of the fact that the grantee had left Pedamidisileru in Cherla Mandal, Khammam District. To characterize it as not being a Community Certificate merely on the basis of the heading of the certificate is a misconceived claim. It further requires to be noted that 13 of the petitioners are 35 years of age and less, yet the certificate states that all of them uniformly migrated from the village 35 years back, a cosmic coincidence, unless there be a rational explanation for this mass exodus.

11. The impugned order of the 1st respondent dated 25.4.2002 clearly reads that in the written statements filed by the petitioners to the show cause notices issued by the 1st respondent and in the personal hearing at which they were heard, it is revealed that none of the petitioners' ancestors ever lived in Pedamidisileru village in Cherla Mandal; the petitioners are not aware of the

language/clan/customs and culture of Lingadhari Koya or Koya as the case may be; the petitioners had obtained the Migration-cum-Caste Certificate of Lingadhari Koya/Koya (ST) (as the case may be) from the MRO, Cherla Mandal of Khammam District because some of their relatives had obtained such certificates from the MRO, Cherla; and the petitioners have no documentary or oral evidence in support of their claim. On the basis of these facts revealed at the hearing (of the petitioners' claim of belonging to Lingadhari Koya/Koya community), the Migration-cum-Caste Certificates issued by the MRO, Cherla to the petitioners were found to be without any basis. Consequently, the impugned order was issued cancelling the fraudulent Migration-cum-Caste Certificates issued by the MRO, Cherla and directing initiation of criminal action against the petitioners under the provisions of the Act and the Rules thereunder.

12. In view of the facts and circumstances adverted to above, on a careful consideration of the impugned order of the 1st respondent and in view of the averments in the counter affidavits of the 1st and 5th respondents, this Court discerns no infirmity in the order of the 1st respondent cancelling the Migration-cum-Caste Certificates issued in favour of the petitioners certifying them as belonging to Scheduled Tribe (Lingadhari Koya/Koya) and further certifying that they had migrated from Pedamidisileru village, Cherla Mandal, Khammam District. De hors these certificates if the petitioners have any other material to support a claim for community certificate as ST, they are however at liberty to do so but on the basis of these certificates issued by the MRO, Cherla the petitioners shall not be entitled to claim ST status. The impugned order of the 1st respondent is impeccable and warrants no interference. There are no merits in the writ petition. The writ petition is accordingly dismissed. In the circumstances of the case, there shall however be no order as to costs.