

(2001) 01 AP CK 0037
In the Andhra Pradesh High Court
Case No : Writ Petition No. 8025 of 1990

M. Balakrishna Rao

APPELLANT

Vs

Joint Collector and Addl. Magistrate, Hyderabad

RESPONDENT

Date of Decision : 30-01-2001

Acts Referred:

Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)
Regulation of Issue of Community Certificates Act, 1993 — Section 9

Citation : (2001) 2 ALD 66 : (2001) 2 ALT 33

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : Mr. V. Venkataramana, for the Appellant; Government Pleader for Social Welfare, for the Respondent

Judgement

1. The petitioner filed this Writ Petition seeking a writ of certiorari calling for the records relating to the Proceedings No.D5/5345 of 1989 dated 29-5-1990 of the Joint Collector and Additional District Magistrate, Hyderabad District and to quash the same.
2. The respondent by the said order dated 29-5-1990 cancelled the caste certificate issued by the Tahsildar, Secunderabad in Ref.No.A6/204/80 dated 1-1-1980 declaring that the petitioner is not a "Mannevarulu" (Scheduled Tribe) Caste.
3. The petitioner submits that he was born in Kondamadugu village, Bibinagar Mandal, Nalgonda District. He belongs to "Mannevarlu" caste and he had studied upto V Standard at Bhongir and V and VI standard at Bibinagar and again VII to XI standard at Bhongir. He stated that as his father expired in 1960, he had to migrate to Hyderabad to eakout his livelihood. He got appointed as Driver in Hyderabad Urban Development Authority (HUDA) in the year 1980 on the basis of the caste certificate produced by him as "Mannevarlu" under Scheduled Tribe quota.

4. Admittedly, the petitioner obtained the caste certificate in Ref.No.A6/80 dated 1-1-1980 from the office of the Tahsildar, Secunderabad and secured the job as driver in HUDA as a Scheduled Tribe. It appears that HUDA suspended him from the services by order 23-6-1986 on the information that he does not belong to Scheduled Tribe Caste. Questioning the same, he filed RP No.1063 of 1986 before the A.P. Administrative Tribunal and the Tribunal while allowing the same by its order dated 5-8-1986 set aside the suspension order as there was no order cancelling the caste certificate.

5. The petitioner submits that the respondent issued a notice dated 9-2-1989 asking him to attend for the enquiry on 20-2-1989 and give his evidence in support of his claim. Accordingly he appeared before the respondent and his statement was recorded on 27-3-1989 in which he had stated that he belongs to "Mannevarlu" caste of Bibinagar Mandal and there are only three families of his caste in Kondamadugu village and his wife belongs to the same caste of Medak District and after recording his statement no further proceedings took place in his presence. Again another notice dated 20-4-1990 was issued summoning him to attend with the caste certificate along with his parents in the office of the respondent on 28-4-1990 in support of his claim that he belongs to Scheduled Tribe. He stated that he appeared on 28-4-1990 before the respondent along with his mother and the certificate and his statement was again recorded on 11-5-1990. He further stated that he had produced two witnesses namely, Smt Rangamma and Ranadheeva Reddy to speak truth about his caste as "Mannevarlu" but the respondent did not record their statements and without examining any witnesses and without furnishing any report and relying on the reports of the Mandal Revenue Officer, Biginagar and the District Collector, Nalgonda, the respondent cancelled his caste certificate vide impugned proceedings dated 29-5-1990 and the said order is illegal and against the principles of natural justice. The petitioner further submits that he belongs to Scheduled Tribe but not "Velama" caste and he was not given any opportunity to cross-examine the witnesses of the persons who were said to have been deposed against the petitioner stating that the petitioner belongs to "Velama" caste but not "Mannevarlu".

6. I have gone through the impugned order, counter-affidavit and the records submitted by the Government Pleader. It appears that pursuant to the communication received from the Social Welfare Department vide its Memo dated 12-8-1986, that the petitioner, who was working as Driver in HUDA showing his caste as "Mannevarlu", which is recognised as Scheduled Tribe, though he belongs to "Velama" caste and not to "Mannevarlu" caste, a notice was issued to the petitioner to appear before the respondent on 20-2-1989. Accordingly the petitioner had appeared before the respondent and sought some time to enable him to furnish documentary evidence in support of his claim. Accordingly, the matter was adjured to 27-3-1989 and his statement was recorded on that date. Though the petitioner stated that he is the native of Kondamadugu village of Bibinagar Mandal, Nalgonda District and his father's

name is Ranga Rao and there were three families of "Mannevarlu" in that village, he obtained the caste certificate on 1-1-1980 showing that he belongs to "Mannevarlu" from the Tahsildar, Secunderabad on the basis of a certificate issued by Sri Machender Rao, MLA, Moulali Constituency, and on the basis of the said caste certificate, he has obtained a job as driver in HUDA under Scheduled Tribe quota in 1980 itself he has not produced any documentary evidence.

7. To substantiate his claim that he belongs to "Mannevarlu" caste which is a Scheduled Tribe, the petitioner neither produced any documentary evidence nor any independent witnesses from his village. Admittedly, he studied in Biginagar and he is a native of Kondamadugu village, Bibinagar Mandal, Nalgonda district. The District Collector, Nalgonda District was asked to submit a report and accordingly the Collector, Nalgonda District got enquired into the matter through the Mandal Revenue Officer, Bibinagar and the said Mandal Revenue Officer examined various persons of different communities of Kondamadugu village who have stated that the petitioner has got a residential house and Ac.3-00 of wet land under Bibicheruvu which is given on lease to Sri Kanakaboina Sathaiah and Narsimha of the same village and that the petitioner does not belong to "Mannevarlu" but he belongs to "Velama" caste and accordingly the Collector, Nalgonda District sent a report on 22-3-1990 to the Commissioner of Land Revenue, Hyderabad. On receipt of the said report, the respondent issued a notice dated 20-4-1990 to the petitioner to give his evidence and for production of the documents such as; educational record from the date of admission disclosing the caste, educational and employment certificates from two gazetted officers, certificate from the concerned Deputy Director, Social/Tribal Welfare Officer certifying that he belongs to Scheduled Tribe and also appear along with two witnesses for recording of their sworn statements on 28-4-1990. The said notice was received by the petitioner and attended before the respondent and his statement was recorded on 11-5-1990 where he has almost repeated the same what has been stated by him earlier on 27-2-1989 that he is the resident of Kondamadugu willage, Bibinagar Mandal, Nalgonda District, he migrated to Hyderabad to eakout his livelihood, though Secunderabad is not his birth place, he had obtained the caste certificate from the Tahsildar, Secunderabad on 1-1-1989 etc.

8. The records reveal that the petitioner did not submit any educational records from the date of the admission disclosing the caste and no certificate of Gazetted Officer or the certificate issued by the concerned Deputy Director of the Social Welfare or the District Tribal Welfare certifying that the petitioner's community or the caste as Scheduled Tribe has been produced and the petitioner did not produce two witnesses for recording their statements. Except his own statement giving particulars of his children, wife and father and obtaining the caste certificate from the office of the Tahsildar, Secunderabad based on the certificate issued by the then M.L.A., of Moulali Constituency, he did not make any attempt to substantiate his claim that he belongs to "Mannevarlu" Caste which is recognized as Scheduled Tribe. He neither produced any witness nor any

document to show that his parents, wife and children belong to Scheduled Tribe.

9. Though the petitioner is not the resident of Secunderabad and though he has not studied in Secunderabad, he has obtained the caste certificate from the Tahsildar, Secunderabad. Primary burden is on him to prove that he belongs to "Mannevarlu" caste (Scheduled Tribe). He has no house or any address at Secunderabad. Admittedly he belongs to Kondamadugu, Bibinagar Mandal, Nalgonda District and he has studied at Bibinagar and Bhongir alone. Even ignoring the enquiry report conducted by the Mandal Revenue Officer, Bibinagar and report of the Collector, Nalgonda District, the petitioner has not discharged his initial burden of proving the certificate obtained by him from the Tahsildar, Secunderabad on 1-1-1980 is genuine and that he belongs to "Mannevarlu" (Scheduled Caste).

10. I, therefore, do not see any merit in the contentions of the petitioner that he belongs to Mannevarlu (Scheduled Caste) as per caste certificate obtained by him from the Tahsildar, Secunderabad in Ref. No.A6/ 204/80 dated 1-1-1980 and the respondent has rightly cancelled the said certificate by the impugned order and when the petitioner does not belong to Scheduled Tribe, his children also cannot belong to Scheduled Tribe. The learned Counsel for the petitioner relied on a judgment of this Court in Vijayakumar v. The Director of Tribal Welfare 1997 (1) AWR 488. In that case, the learned single Judge found fault with the authorities for not examining the persons belonged to the native place of the petitioner and the elders of the different families were not examined and relying on the documentary evidence, cancellation of the certificate is unsustainable. In that case, initial burden was discharged by the petitioner by way of production of certain documents stating that he belongs to "Konda Kapu" and without examining any of the witnesses the caste certificate produced therein was sought to be cancelled, and therefore, the facts in the said case are different from that of the facts in the instant case as the petitioner had not discharged his initial burden to support the caste certificate obtained by him and no documentary evidence has been produced by him on what basis the petitioner could obtain the caste certificate from the Tahsildar, Secunderabad which is not his native Mandal. The other case relied on by the petitioner is in Kottu Acharao Vs. Joint Collector and Additional District Magistrate and Another, , is also of no help to the petitioner in view of the Supreme Court judgment in Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and another, . As the initial burden of proof is not discharged by the petitioner, and it is relevant to quote a portion of Para 6 of the Apex Court.

".....Burden of proof of social status is always on the person who propounds it to seek constitutional socio-economic advantages. It is no part of the duty of the State to disprove or otherwise. The criteria to obtain caste certificate from Native Tahsildar/Mandal Revenue Officer/Revenue Divisional Officer is relevant for the reason that Scheduled Tribes generally live in forest areas, mountainous region and specified pockets and will be known to local officers or easily accessibly for

verification. The respondent is not as innocent as the Division Bench appears to have proceeded. It is seen that the father of the respondent deliberately abstained to appear before the Director. The social status certificate to the daughter was required to be produced from the Tahsildar of the native jurisdiction but failed. Though he lived in Malakpet within the jurisdiction of Musheerabad Tahsildar, he produced the certificate from Tahsildar, Vallabhnagar in Rangareddy District who had no jurisdiction to issue. Yet he had chosen to obtain from him and the officer was willing and accommodating one to issue false certificate. When the Principal doubted its correctness and referred the matter to the Director of Tribal Welfare, the father admittedly did not appear to establish the social status. Though respondent, minor appeared before the Director, his statement cannot be used as evidence....."

11. The petitioner did not discharge the initial burden to prove his social status. Unless the petitioner discharges his initial burden by proving the certificate obtained by him as genuine and the basis on which the said certificate obtained is proved as genuine and except the certificate of the then M.L.A., Moulali Constituency, there is no other basis on which the certificate was issued by the Tahsildar, Secunderabad, and therefore, it cannot be said that he has discharged his initial burden of proving of his social status. Even ignoring the enquiry report of the Mandal Revenue Officer, Bibinagar and the District Collector, Nalgonda as the petitioner failed to discharge his initial burden to prove that he belongs to Scheduled Tribe and the certificate obtained by him is without any basis, I, cannot find fault with the action of the respondent in cancelling the caste certificate issued by the then Tahsildar, Secunderabad on 1-1-1980.

12. Accordingly, the writ petition is dismissed. No costs.