
(2014) 10 MAD CK 0151

In the Madras High Court

Case No : Writ Appeal No. 2678 of 2001 and Writ Petition No. 16684 of 2001

P. Jayaprakash

APPELLANT

Vs

The Chairman and Secretary to Govt.

RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Citation : (2014) 10 MAD CK 0151

Hon'ble Judges : Sanjay Kishan Kaul, C.J;M. Sathyanarayanan, J

Bench : Division Bench

Judgement

M. Sathyanarayanan, J.—The writ petitioner is the appellant and he made a challenge to the impugned order dated 23.08.2001 passed by the first respondent-Committee, wherein the order cancelling the community certificate came to be upheld. The writ petition, after contest, came to be dismissed. Aggrieved by the same, he has filed the writ appeal.

2. A perusal of the typed-set of documents would disclose that the appellant claims that he belongs to Konda Reddis Community, which is listed as a Scheduled Tribe under the Constitution (Scheduled Tribes) Order, 1950 and he was called for an interview by the fourth respondent-Life Insurance Corporation for appointment to the post of Assistant and got selected and appointed to the said post in the year 1986. According to him, he had produced a Community Certificate dated 22.08.1982 issued by the Deputy Tahsildar and the said certificate was issued after thorough verification of records and conducting enquiry. The petitioner had also obtained another Community Certificate dated 25.03.1986 from the First Class Magistrate to the effect that he belongs to the said Community. The fourth respondent having satisfied with his community status had confirmed his services on 16.10.1986 and he was also promoted to the post of Higher Grade Assistant on 22.10.1986. The fourth respondent directed the appellant to produce a fresh community certificate and accordingly, he had applied to the third respondent for issuance of a fresh community certificate and the third respondent had passed an order dated 28.01.1991

stating that the appellant does not belong to Konda Reddis Community. Aggrieved by the same, he had filed Writ Petition No. 15968 of 1991 to quash the said order and this Court allowed the writ petition and directed the third respondent to conduct a fresh enquiry. According to the appellant, he appeared before the third respondent and produced various documents. However, the third respondent did not give any personal hearing and directed him to appear before the District Collector. Thereafter, the second respondent had passed an order dated 31.07.2000, cancelling the Community Certificate issued in his favour. Aggrieved by the same, he had filed Writ Petition No. 13865 of 2000 and this Court, by order dated 16.8.2000, directed him to file an appeal before the first respondent and accordingly, he preferred an appeal before the first respondent. According to the appellant, though the second respondent placed reliance upon the enquiry report furnished by the Revenue Divisional Officer, Thiruvallur, copy of the same was not furnished to him and without due application of mind, the first respondent had chosen to confirm the order passed by the second respondent. He has filed Writ Petition No. 16684 of 2001, challenging the orders passed by the first and second respondents and this Court, by order dated 13.09.2001, dismissed the same by placing reliance upon the decision of a Division Bench of this Court, dated 03.01.2001 in Writ Appeal No. 171 of 2000. Hence, the present writ appeal.

3. Learned counsel appearing for the appellant would submit that admittedly, the State Level Scrutiny Committee, which passed the impugned order, consists of three members and however, in the impugned order, dismissing the writ petition, it has been stated that the same was passed by a Committee consists of only two members. His further submission is that though the Committee placed reliance upon the report of the Revenue Divisional Officer, admittedly, the same was not furnished to the appellant and therefore, prays for setting aside the impugned order.

4. This Court heard the submissions of the learned Government Pleader, who would submit that the District Level Scrutiny Committee as well as the learned single Judge, after due application to the materials placed before them, had rightly rejected the prayer for issuance of the Community Certificate and prays for dismissal of the writ appeal.

5. This Court, on scrutiny of the typed-set of documents, is of the view that the reasons assigned in the order dismissing the writ petition are unsustainable in law and the only course open for us is to set aside the impugned order and remand the matter to the learned single Judge for fresh adjudication. However, considering the fact that the order of the first respondent - Committee was passed on 23.8.2001 and the order dismissing the writ petition was passed on 13.9.2001 and that in view of the interim orders passed in the writ appeal, the petitioner continues to be under employment in the services of the fourth respondent, this Court has decided to take up the writ petition for final disposal.

6. As rightly contended by the learned counsel for the appellant/petitioner, the

order passed by the first respondent consists of three members Committee and therefore, the reason assigned in the order passed in the writ petition cannot be sustained. A perusal of the order passed by the first respondent dated 23.08.2001 would also disclose that reliance was placed upon the report of the Revenue Divisional Officer to arrive at the conclusion to reject the request for issuance of community certificate and admittedly, a copy of the same has not been furnished to the appellant and hence on the sole ground, the impugned order passed by the first respondent is quashed and remitted to the first respondent for fresh adjudication.

7. In the result.

1. Writ appeal is allowed and the order dated 13.9.2001 passed in Writ Petition No. 16684 of 2001 is set aside.

2. Writ Petition No. 16684 of 2001 is allowed and the impugned order dated 23.8.2001, passed by the first respondent, confirming the order passed by the second respondent dated 31.7.2000, is set aside and the matter is once again remitted to the first respondent for fresh adjudication and the first respondent is directed to furnish a copy of the report of the Revenue Divisional Officer and other relevant materials, which they may place reliance upon, to the appellant and pass orders on merits and in accordance with law within three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.