

(1999) 12 AP CK 0005
In the Andhra Pradesh High Court
Case No : Writ Petition No. 24957 of 1999

P. Kranti

APPELLANT

Vs

Government of Andhra Pradesh and others

RESPONDENT

Date of Decision : 03-12-1999

Acts Referred:

Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)
Regulation of Issue of Community Certificates Act, 1993 — Section 20, 21, 4, 5
Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 — Rule 19, 5,
8, 9

Citation : AIR 2000 AP 163 : (2000) 2 ALD 622 : (1999) 6 ALT 734

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Mr. A.V. Sesha Sai, for the Appellant; Government Pleader for Social Welfare and Mr. C. Kodanda Ram, SC for JNTU, for the Respondent

Judgement

V.V.S. Rao, J. 1. The writ petition is filed for a declaration that the action of the Commissioner of Tribal Welfare and the Convenor, EAMCET-99 in not granting admission to the petitioner in the I year B. Tech., course in accordance with the rank obtained by her in EAMCET-99 duly considering the Community, Nativity and Date of Birth Certificate dated 18-9-1999 (hereafter called the Integrated Community Certificate) issued by the 5th respondent, as illegal and for a further direction to the respondents 2 and 3 to grant admission to the petitioner duly setting aside the memo dated 18-11-1999 issued by the 2nd respondent.

2. The learned Government Pleader for Social Welfare appeared at the time of admission and the matter as heard at length as the question involved is regarding the admission of the petitioner to B.E course for which classes are likely to commence shortly. The learned Government Pleader has made submissions based on instructions and submitted that as per the admission Rules for B.E. and other professional courses, the Commissioner of Tribal Welfare or the Commissioner of Social Welfare or their nominees are very much required in the admission committee at the time of counselling to prevent misuse of the

community certificates, especially by those who produce false and spurious community certificates depriving the genuine persons. This submission can be better appreciated by referring to a few facts relevant for the purpose of this case.

3. The petitioner appeared for EAMCET-99 in Engineering stream and obtained a rank. She belongs to Scheduled Tribe "Mannervarlu". She obtained an integrated community certificate in accordance with the provisions of AP (SCs, STs and BCs) Regulation of Issue of Community Certificates Act, 1993 (hereafter called the Act) and A.P. (SCs, STs and BCs) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 (hereafter called the Rules) from the Mandal Revenue Officer, the competent authority. The certificate bearing S.No.039539 and Certificate No.D/4308/97/408 dated 19-9-1999 clearly shows that the petitioner belongs to "Mannervarlu" Scheduled Tribe. Armed with the said integrated community certificate, she appeared for the counselling conducted by the third respondent on 18-11-1999 and produced all the certificates before the Convenor. The 2nd respondent issued a memo in Rc.No.905/99/TRI/VC2, dated 18-11-1999 to the effect that the surname "pokala" which the petitioner has is uncommon among "Mannervarlu", that the matter requires deeper probe and, therefore, the seat allotted to the petitioner be kept in abeyance until further orders. The petitioner was also advised to appear before the Commissioner of Tribal Welfare on 29-11-1999. Aggrieved by this action, the petitioner approached this Court.

4. In my judgment dated 29-11-1999 in Writ Petition No.24434 of 1999 I have dealt with a similar case where the Commissioner directed a candidate aspiring for Engineering seat to produce a community certificate showing the candidate as belonging to Scheduled Tribe within a period of one week. Dealing with the power of the Commissioner of Tribal Welfare to issue such orders, I held as follows:

"As per the provisions of Act 16 of 1993, it is either the MRO or the RDO who are authorised officers to issue community certificate to a candidate. If a certificate which is obtained by fraud or misrepresentation is to be cancelled, the Act contemplates an elaborate procedure to be initiated by the District Collector, who shall alone is competent to pass final orders. The Commissioner of Tribal Welfare nowhere comes into picture. Therefore, the memo issued by the Commissioner dated 18-11-1999, is ex facie without authority.."

5. The Act regulates the issue of community certificates to persons belonging to Scheduled Castes, Scheduled Tribes and Backward Classes. In exercise of power under sub-section (1) of Section 20 of the Act, the Governor has made Rules in G.O. Ms.No.58 Social Welfare dated 12-8-1997 known as A.P. Scheduled Castes, Scheduled Tribes and Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997. The competent authority shall issue community certificate on receipt of applications. Section 4 of the Act provides for issue of certificates by the competent authority. Rule 5 of the Rules provides for elaborate enquiry/verification before an integrated community certificate is issued u/s 4 of the Act. When any authority has a reason to believe either suo motu or on a

written complaint that any community certificate was obtained fraudulently, it is only the District Collector who can initiate enquiry under the Act. Such enquiry shall be conducted in accordance with Rules 8 and 9 of the Rules. Section 21 of the Act provides that unless a community certificate is cancelled in accordance with the provisions of the Act, the community certificate issued by any authority shall be valid and the same shall be deemed to have been issued under the provisions of the Act. Rule 19 of the Rules is to the effect that if there is likely to be delay in finalising the enquiry either for issue of integrated community certificate or for cancellation of such certificate duly following the procedure contemplated u/s 5 read with Rules 8 and 9, the competent authority may inform the Principal of the educational institution to admit the candidate (in the case of educational institutions) on the basis of the declaration given by the candidate and that such admission shall be provisional for a period of three months from the date of communication from the competent authority. The conspectus of the provisions referred to herein makes it very clear that a certificate issued by a competent authority under the provisions of Section 4 of the Act has unimpeachable finality till the same is cancelled only by the District Collector. The Commissioner of Tribal Welfare has no role to play either at the stage of issue of community certificate or cancellation of the community certificate. In view of this, the submission made by the learned Government Pleader for Social Welfare that so as to prevent the misuse of the benefits intended for the candidates belonging to SCs, STs and BCs, a high authority like the Commissioner of Tribal Welfare should be presumed to be vested with such inherent power to stall the benefit of integrated certificate, though looks to be attractive, cannot be accepted. Nevertheless, I should hasten to add that in view of Section 5 of the Act that the Collector can initiate action for cancellation either suo motu or on application or on a written complaint, it is always open to any other authority, including the Commissioner of Tribal Welfare, to make a written complaint to the District Collector to enquire into the genuineness of the integrated community certificate produced by a person seeking admission or appointment. On such complaint being made, the District Collector is bound to conduct enquiry having regard to the fact that the written complaint is made by a no less person than the Head of the Department of Tribal Welfare.

6. For the reasons, this writ petition is disposed of directing the 3rd respondent to allot the petitioner to the 6th respondent college in accordance with her eligibility as per her rank duly giving effect to the integrated community certificate dated 18-9-1999 and the petitioner shall be admitted in accordance with rules in the 6th respondent college without any objection. If the Commissioner of Tribal Welfare intends to make written complaint to the District Collector, Hyderabad, the 4th respondent herein, the 2nd respondent may do so, if so advised, within a period of two weeks from the date of receipt of a copy of this order and on such written complaint being made, it shall be enquired into by the 4th respondent, the District Collector, in accordance with law after giving adequate opportunity to the petitioner. There shall be no order as to costs.