
(1990) 03 KAR CK 0004
In the Karnataka High Court
Case No : Writ Petition No. 14005 of 1988

P. Seshagiriappa

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 08-03-1990

Acts Referred:

Citation : (1990) ILR (Kar) 1719

Hon'ble Judges : Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : K.N. Mahabaleswara Rao, for the Appellant; L.K. Srinivasamurthy, HCGP, for the Respondent

Judgement

Chandrakantara. Urs, J.—This matter coming up for further orders, it is taken up for final disposal in view of the fact that it is covered by a decision of the Supreme Court and also there is some degree of urgency for the petitioner to get the required caste certificate.

Petitioner has averred that he belongs to the community known as "Bhovi". He has asserted that the said caste has been declared as Scheduled Caste by the Government of India by Act No. 108 of 1976 with effect from 27-7-1977. The above mentioned Act has been extended to the entire State of Karnataka. He has also asserted that throughout his educational career his school records show him and the members of his family to belong to Bhovi caste. He made an application to the 2nd respondent-Tahsildar, Thirthahalli Taluk, Thirthahalli, Shimoga District of Karnataka State for grant of a caste certificate on behalf of his minor children viz., (1) Sukanya, aged about 16 years, (2) Suchitra, aged about 14 years and (3) Sudarshana, aged about 13 years studying in S.S.L.C., VIII Standard and VII Standard respectively. He has also stated that one of his sons Sorendra is studying in VIII Standard at Giri Jyothi Convent School in Kudremukh and his caste has been shown as Scheduled Caste in the transfer certificate. The application so made, the Tahsildar on 20-7-1988 has rejected the application, a xerox copy of which is produced as Annexure-D. The operative portion of the

order freely translated into English will read as follows:

"The applicant and his children do not belong to Bhovi community. But belong to Bovi community. Therefore, the application submitted in Form No. 1 is dismissed and a fresh application in Form No. 2 is invited to certify that they belong to Backward Class."

Aggrieved by the same, the petitioner has approached this Court inter-alia contending that the order is without due application of mind and without regard to the provisions of the Central Act and therefore liable to be set aside and a Mandamus issued directing the Tahsildar to issue the certificate prayed for in Form No. 1 certifying petitioner and his children as belonging to Scheduled Caste of Bhovis.

2. This problem thus crops up often on account of ignorance of the Officers who are required to certify. The Supreme Court generally in this regard and particularly in regard to the Bhovi caste considered this question which arose for consideration in the case of B. Basavalingappa Vs. D. Munichinnappa, A Constitution Bench of the Supreme Court discussed in detail with particular reference to Voddars, Bhovis and Bovis. It is useful to extract paragraphs 8, 9 and a portion of paragraph 10 as reported in the AH India Reporter and it will make the position clear:

"Let us then turn to the evidence which has been given in this case to prove that it was Voddar caste which was meant by the word "Bhovi" included in the order. In this connection reliance has been placed on a communication made to the then Government of Mysore as far back as 1944 on behalf of Voddar caste and the order of the then Government of Mysore in February 1946. It seems that a resolution was passed by the Voddar caste at a conference in July 1944 in which it was resolved that the name of that caste be changed from Voddar to Boy is. This resolution was processed in the Secretariat. Eventually an order was passed on February 2, 1946 in these terms:-

"Government are pleased to direct that the community known as "Vodda" be in future called "Boy is" in all Government communications and records."

9. Since then it seems that in all Government records the Voddar caste has been known as Boy is, for it is not disputed that Voddar and Vodda are the same. It seems, therefore, reasonable to infer when the President made the Order in 1950 after consultation with the Rajpramukh of Mysore whom he was bound to consult under the Constitution before passing the Order with respect to the State of Mysore that the caste Vodda was included in the Order as Bhovi because of the order of the then Government of Mysore of February 1946. We shall deal with the difference in spelling later but it does appear that the caste voddar was not mentioned as such in the Order because the name of that caste was changed in 1946 for all Government purposes by the order of the then Government of Mysore. Therefore, if the order had mentioned the caste as "Boy is" there would have been no difficulty in holding that it meant the Voddar caste in view of the

order of the then Mysore Government of February 1946 to the effect that the Voddars had given up their original name and had changed it to Boy is from 1946.

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The High Court, therefore, has not attached any importance to the change in the English spelling in the peculiar circumstances of this case. In this connection attention may be drawn to the Notification of the then Government of Mysore dated February 2, 1946 where Voddar caste is spelt in three ways in the same Notification ; at one place it is spelt as Voddara, at another place as Voddar and at two places as Vodda. It seems, therefore, that we cannot attach undue importance to the spelling in English in this case when we know that there was no specific caste known as Bhovi in Mysore State as it was before 1956 and we have to determine which was the caste which was meant by the use of that term in the Order....."

3. From the above, it is clear that spelling difference in the English language cannot determine the caste factor merely because one chooses to spell a particular community in a particular way. Whether the word "Bhovi" is spelt as Bhovi or Bovi or Boy is or Boiee, they all mean the same a caste or community which by and large make a living out of stone masonry or stone quarrying in this part of the Country. Added to this, the petitioner's son had already been certified by another Tahsildar in Kudremukh area as belonging to Scheduled Caste.

4. Respondent-2 was in error in rejecting the claims of the petitioner for himself and the members of the family the status of belonging to the Scheduled Caste. Therefore, order at Annexure-D is quashed as being without the authority of law and contrary to the ruling of the Supreme Court in Basavalingappa's case supra.

5. In the result, a Mandamus will issue to the second respondent directing him to issue a caste certificate required by the petitioner for his 3 children in respect of application made in form No. 1.

Rule issued is made absolute.

Order accordingly.