
(2022) 11 TEL CK 0089
In the Telangana High Court
Case No : Writ Petition No. 18951 Of 2021

P. Srinivasulu

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 24-11-2022

Acts Referred:

Citation : (2022) 11 TEL CK 0089

Hon'ble Judges : P.Madhavi Devi, J

Bench : Single Bench

Advocate : Rapolu Bhaskar

Final Decision : Allowed

Judgement

1. This writ petition has been filed by the petitioner seeking a writ of certiorari calling for records to declare the impugned G.O.Ms.No.40, dated 31.05.2021 issued by the 1st respondent and proceedings No.C2/6214/2002, dated 11.09.2008 issued by the respondent No.3, as illegal, arbitrary and unconstitutional.

2. Brief facts leading to the filing of the present writ petition are that the petitioner was appointed as Assistant Sub-Inspector (M), in the CRPF, 82 Battallion (Bn), Rampur (Uttar Pradesh) in the month of January, 1995 under the reserved category on the basis of his caste certificate issued by the Mandal Revenue Officer (MRO), Narsaraopet dated 20.08.1992. Thereafter, the petitioner's Head of Office i.e., The Commandant, 82 Bn CRPF, addressed a letter dated 10.05.2001 to the MRO, Narsaraopeta Guntur District, to verify the caste certificate issued to the petitioner on 20.08.1992. It is submitted by the learned counsel for the petitioner that the petitioner has approached the Hon'ble High Court of Allahabad and filed W.P.No.14658 of 1998 for genuineness of his caste certificate dated 20.08.1992 and vide order dated 01.09.1999, the High Court directed the authorities to afford opportunity to the petitioner to prove that the caste certificate filed by the petitioner was genuine. In the meantime, in the year

2000, the petitioner made an application along with proof of documents and obtained fresh caste certificate from the MRO, Saroornagar, R.R.District, as his family were residing in the said locality since long time. It is submitted that after due enquiry and on the basis of the previous caste certificate submitted by the petitioner and the declaration of two Gazetted Officers and also a declaration given by the father of the petitioner by way of a sworn affidavit, the MRO, Saroornagar, had issued the caste certificate to the petitioner stating that he belongs to Kondakapu ST Community.

3. Learned counsel for the petitioner submits that the petitioner had submitted the said certificate in the office as his permanent caste certificate. Thereafter, at the request of the Commandant, 82 Bn, CRPF, the District Collector and RDO Eastern Division, the MRO, Saroornagar Mandal, had submitted a report dated 11.10.2002 stating that the petitioner's father P.Yadagiri belongs to Kondakapu and on the basis of the material as stated supra, produced by the petitioner, the then MRO, Narsaraopet, had issued a caste certificate as Kondakapu ST and therefore, no further enquiry was warranted.

4. Learned counsel for the petitioner further submitted that after the directions of the Hon'ble High Court, Allahabad, the Head of Office, The Commandant, 82 Bn, CRPF, again addressed a letter dated 10.05.2001 to the MRO, Narsaraopet, Guntur District, for verification of the petitioner's caste certificate. As per the directions of District Collector, Guntur District, the MRO, Narsaraopet, conducted a detailed enquiry through Revenue Inspector vide RC.No.601/2002, dated 19.08.2002 and dated 13.09.2002 and the Revenue Inspector recorded the statements of (1) A.Venkata Chandra Rao, who was an Ex-VAO of the Narsaraopet; (2) M.Ramaiah, who was the house owner of the petitioner's father and (3) G.Venkata Prasad, who was the Ex-Councillor of Narsaraopet, who categorically stated that the petitioner's family belongs to Kondakapu ST Community. Therefore, the MRO, Narsaraopet, recorded the statement of the petitioner's father i.e., P.Yadagiri and submitted a report to the RDO that the petitioner belongs to Kondakapu Community and accordingly the RDO, Narsaraopet, Guntur District, called for the records of 601/2002-C, dated 28.09.2002 addressed a letter to the Collector, Guntur District. The District Collector, Guntur District, however raised a doubt that Kondakapu ST Caste is not in existence in Guntur District as per the caste catalogue and as per SC/ST catalogue. It is the case of the petitioner that the District Collector did not make any observation about the genuineness of the caste certificate and that as per SC/ST catalogue, Kondakapu caste was scheduled ST community throughout the State of Andhra Pradesh as per the Presidential order. It is submitted that another enquiry i.e., second enquiry was conducted by the MRO, Saroornagar, Ranga Reddy District, vide letter No.C/11182/2002, dated 11.10.2002, who verified all connected documents and conducted a local enquiry through neighbours in their sworn statement i.e., 1.P.Laxminarashima Rao; 2.V.Janardhan Rao and 3.P.Yadagiri i.e., father of the petitioner and two Gazetted Officers, who issued the caste certificate dated 25.03.2000, who deposed that the father of the

petitioner belonged to ST Kondakapu community. The Assistant Director, Training, DLTC/ITI, Vikarabad, vide Lt.No.C/Estt/2000, dated 25.01.2000 addressed to MRO, Saroornagar, informed that the father of the petitioner is working as a Senior Assistant and as per his service register, his caste was recorded as ST Kondakapu. Basing on these evidence, the then MRO, Saroornagar, had issued caste certificate and the report was submitted to the District Collector, Ranga Reddy District, dated 11.10.2002.

5. Thereafter, the respondent No.3 District Collector referred the case to the respondent No.2 DLSC, Director of Tribal Welfare, Hyderabad, who submitted a report vide letter dated 6.11.2006 alleging that "individual has submitted other caste certificate from MRO, Pengunchiprolu, Krishna District, dated 02.08.1990". The petitioner submits that he never submitted any caste certificate from MRO, Pengunchiprolu, Krishna District, dated 02.08.1990, to any authority or the CRPF Department and that a false enquiry was conducted through MRO, Pengunchiprolu by the department i.e. 82 Bn, CRPF. It is submitted that during the departmental enquiry, the Inspector General of Police, Central Sector, Lucknow, had issued orders vide Hindi Order No.R.XVII-40/99-CS-ADM-3, dated 15.03.2000 and 02.05.2002 that there is no proof and that no witnesses were available that the Xerox copy of the caste certificate of MRO, Pengunchiprolu, Krishna District, dated 02.08.1990 was submitted by the petitioner at the time of appointment in CRPF. The matter was accordingly disposed of during the departmental enquiry.

6. It is submitted that on the basis of the report of the MRO, Narsaraopet and also the DLSC report, the caste certificate of the petitioner was cancelled vide orders dated 06.11.2006. Challenging the same, the petitioner had filed an appeal before the Secretary to the Government, Tribal Welfare Department and when the interim orders was not passed against the same, the petitioner approached this Court and vide orders in W.P.M.P.No.3847 of 2009 in W.P.No.2996 of 2009, this Court had granted interim stay against the said orders and the writ petition was disposed of with a direction to dispose of the appeal of the petitioner after giving an opportunity of hearing and further directed that the interim order dated 16.02.2009 shall continue till the disposal of the appeal.

7. It is submitted that respondent No.1 dismissed the petitioner's appeal vide G.O.Ms.40, dated 31.05.2021 in proceedings No.C2/6214/2002, dated 11.09.2008 and further observed that interim stay granted by the Hon'ble High Court and the final orders dated 20.07.2011 become inoperative in view of these findings. Challenging the same, the present writ petitioner is filed.

8. Learned counsel for the petitioner submitted that the petitioner's father was also in Government service and retired as a Government servant and his status was always shown as Kondakapu ST, which has not been disturbed by any of the authorities. It is submitted that on the basis of the caste certificate of the petitioner's father and also his sworn affidavit, the petitioner was issued caste certificate of Kondakapu ST by MRO, Narasaraopet and subsequently, on

migration to Hyderabad, the petitioner had also obtained the caste certificate from the MRO, Saroornagar in the year 1997. He submitted that the respondent authorities have not taken into consideration, the reports of the earlier officers i.e., Tahsildhar, RDO, DLSC, who have found the caste certificate of the petitioner to be genuine and that all these enquiries were also made at the instant of the Commandant, CRPF. It is submitted that the petitioner has been subjected to number of enquiries and it is on the basis of statement given by the MRO, Narsaraopet, that on the basis of the sworn affidavit of the father of the petitioner that the caste certificate has been given and without giving any finding that the sworn statement is false, the caste certificate of the petitioner has been cancelled.

9. Learned Government Pleader for Social Welfare, on the other hand, relied upon the averments made in the counter affidavit and stated that the burden lies on the petitioner to prove that the caste certificate issued to him is genuine. She submitted that after enquiry, it was found that the petitioner has been issued the caste certificate without due verification of the statement given by the father of the petitioner. She also placed reliance upon the observation of the respondents that an enquiry was made with the owner of the house in which the petitioner and his family were residing in the year 1992 and the owner had stated that the petitioner's father had requested him to inform the authorities who come for enquiry that they belong to Kondakapu ST community. She further relied upon the observation that the caste Kondakapu ST did not exist in Guntur District. Therefore, she submitted that the caste certificate given to the petitioner is not genuine. It is further submitted that on verification of records, the MRO has reported that there was no signature of the MRO, Narsaraopet, certifying that the petitioner belongs to Kondakapu ST caste and it is with the collusion of the officials in the office of MRO, that the caste certificate has been given to the petitioner, and it is on the basis of such non-genuine certificate obtained from the MRO, Narsaraopet, that the petitioner has obtained ST certificate from the MRO, Saroornagar. Therefore, she submitted that all the relevant points have been examined and verified by the concerned authorities and after giving due opportunity of hearing the petitioner only, the caste certificate has been cancelled. Therefore, there is no need for any interference with the impugned order.

10. Learned counsel for the petitioner, in rebuttal, submits that the petitioner's father had worked for more than 40 years in Government Service and his caste has always been shown as ST Kondakapu and has not been disturbed.

11. He further submitted that the report of the DLSC, Director of Tribal Welfare, Hyderabad, dated 06.11.2006 is based on erroneous observation that the petitioner has submitted other caste certificate from MRO, Pengunchiprolu Mandal, Krishna District, dated 02.08.1990. He submitted that the petitioner had never submitted such a certificate and if there is any certificate issued by such an authority, the petitioner cannot be held responsible. He attributed the same to

wrong and faulty inquiry got done by the Head of his department i.e., 82 Bn, CRPF. Further, he submitted that no opportunity was provided to the petitioner against the show cause notice before issue of final order i.e., cancellation of the caste certificate. He also submitted that the copy of the findings of the DLSC dated 29.04.2008 also was not served on the petitioner. He submitted that during the relevant period, the petitioner was staying at 82 Bn CRPF, Mayur Vihar, Phase-III, New Delhi i.e., at a distance of 1563kms from Hyderabad and no show cause notice of the DLSC, Hyderabad, was served to the petitioner through the department and therefore, no opportunity was provided to him to make any representation against the show cause notice before issuance of final orders.

12. He submitted that the notice dated 03.02.2020 was served on the petitioner to attend the appeal petition hearing on 07.03.2020 and during that period, the petitioner was staying and serving at 193 Bn CRPF, Musabani, East Singhbhum, Jharkhand State i.e., at a distance of 1403 kms from Hyderabad and his officer refused to send him on Government duty. It is submitted that due to heavy expenditure, financial and health problems facing by him, he had requested the Secretary to Government, Tribal Welfare Department, Telangana Secretary, BRK Bhawan, Hyderabad, to adjourn the hearing on 07.03.2020 vide his application dated 03.03.2020 and thereafter due to Covid situation and the consequent national lockdown, all transport, air and roadways remained closed up to third week of June 2020 and hence, the petitioner could not come to Hyderabad. It is submitted that the notice calling upon the petitioner to attend the hearing on 29.09.2020 was also not served on him as the said notice was sent to DIGP, GC, CRPF, Old Airport, Pandila, Allahabad (U.P.), where the petitioner was not working and the appeal was dismissed without any hearing and therefore, it has caused great injustice to him.

13. Upon hearing both the parties and on perusal of material on record, it is noticed that the impugned order dated 11.09.2008, cancelling the petitioner's caste certificate is an ex-parte order. Though it is mentioned that the petitioner was given an opportunity to show cause as to why his caste certificate should not be cancelled and it is stated that the petitioner never availed the said opportunity and has not submitted any explanation to the same, from the order dated 13.05.2021, it is noticed that after 07.03.2020 the case was fixed for hearing only on 29.09.2020, on which day neither the petitioner nor his advocate has appeared and the impugned order was passed without any further dates.

14. In view of the same, this Court is of the opinion that sufficient opportunity of hearing was not afforded to the petitioner. Hence, this Court deems it fit and proper to set aside the orders of the respondent No.1 dated 31.05.2021 and also orders dated 11.09.2008 of the respondent No.3 and direct the respondent No.3 to issue a fresh notice to the petitioner and decide the issue in accordance with law after giving fair opportunity of hearing to him.

15. Accordingly, this writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.