

(2006) 06 KAR CK 0067
In the Karnataka High Court
Case No : Writ Petition No. 33321 of 2002

S. Nagabhushana

APPELLANT

Vs

The Tahsildar

RESPONDENT

Date of Decision : 03-06-2006

Acts Referred:

Citation : (2006) 06 KAR CK 0067

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : K.N. Mahabaleshwara Rao, for the Appellant; B. Veerappa, AGA, for the Respondent

Judgement

N.K. Patil, J.—The petitioner, questioning the legality and validity of the endorsements dated 6th/31st August 2001 and 21st June 2002, both issued by Tahsildar, Sringeri Taluk, Sringeri, has presented the instant writ petition. Further, he has sought for a direction, directing the respondent to certify that, he belongs to "Bhovi" caste.

2. The only grievance of the petitioner in the instant writ petition is that, petitioner had filed the application on 4th May 2001 for issuing the Caste Certificate, stating that, he belongs to "Bhovi" caste, which is a recognised scheduled caste and that, the Caste Certificate had been earlier issued by the Tahsildar, Sringeri Taluk to that effect originally in favour of the father of petitioner on 7th July 1964 and thereafter, the Caste Certificate had also been issued to the petitioner also in the year 1990. Due to afflux of time, petitioner has lost the original Caste Certificate issued by the Tahsildar, on 7th June 1990. Thereafter, when petitioner wanted to do his further studies, on coming to know that the Caste Certificate issued by the Tahsildar, Sringeri was lost, he has filed an application again before the respondent for issuance of the Caste Certificate in his favour. The respondent herein has not considered his request and not issued the Caste Certificate to the effect that he belongs to "Bhovi" caste, which falls under the scheduled caste category, as has been entered in the relevant records.

The petitioner has completed his MBBS course and when the dispute arose, the petitioner was constrained to approach this Court in Writ Petition No. 739/1998 and that writ petition was allowed by this Court and the order passed by the competent authority vide Annexures T and U therein were quashed. Being aggrieved by the said order dated 15th December 2000 passed by the learned Single Judge of this Court in Writ Petition No. 739/1998, the Mysore Medical College represented by its Principal, the Caste Verification Committee by its Chairman and the Divisional Commissioner, Mysore have assailed the correctness of the order passed by the learned single judge of this Court in Writ Appeal No. 3090/2001. The writ appeal filed by the said appellants was dismissed by the Division Bench of this Court on 13th September 2001, confirming the order passed by the learned Single Judge. In spite of bringing this fact to the notice of respondent herein, the respondent has refused to issue the Caste Certificate to the petitioner on the ground that, there is no specific direction issued by this Court to issue the Caste Certificate to the petitioner and there is no provision under law to consider his case again for issuance of Caste Certificate. Being aggrieved by the impugned endorsements dated 6th/31st August 2001 and 21st June 2002 vide Annexures F. and G. respectively and seeking appropriate directions, as referred above, petitioner has presented the instant writ petition.

3. I have heard learned Counsel appearing for petitioner and learned Additional Government Advocate appearing for respondent. After careful evaluation of the entire material available on file including the orders passed by the learned Single Judge of this Court and confirmed by the Division Bench of this Court and the Caste Certificate issued in the name of the father of the petitioner and also the petitioner, that he belongs to "Bhovi" community, which is recognised as schedule caste, it is significant to note here itself that, the learned Single Judge of this Court has elaborately discussed on this aspect and has given a specific finding at paragraph 5 of its order dated 15th December 2000 In Writ Petition No. 739/1998 which is later on confirmed in Writ Appeal No. 3090/2001 by the Division Bench of this Court on 13th September 2001. Instead of going through the order passed by this Court, without proper application of mind and without reference to the notification issued by the Central Government and the State Government in this regard, the respondent has proceeded on the basis of assumption and presumption and has issued the impugned endorsements. This is nothing but just protracting the proceedings and making the party to move from pillar to post. It cannot be disputed that, due to afflux of time, petitioner might have lost the original Caste Certificate issued to him. In such circumstances, when necessary application is made by the concerned person, it is duty cast on the concerned authority to consider and issue the certificate as envisaged under the relevant provisions of the Act and circular/order issued by Government from time to time delegating the powers to the grass root jurisdictional Officers, who are dealing with the matters. Shirking the responsibility by referring to some irrelevant references and rejecting the request made by petitioner is not justifiable.

4. One more aspect to be taken into consideration is that, when the Division Bench of this Court had an occasion to deal with the question as to whether "Bhovi" community belongs to scheduled caste or not?, this Court has taken the view that, there are two types of "Bhovi" community, viz. "Bovi" and "Bhovi" community and both the communities are recognised as scheduled caste. The Division Bench of this Court held that, the two communities belongs to scheduled caste irrespective of the caste mentioned in their Caste Certificate as "Bhovi" or "Bovi". Therefore, it has been declared and held, placing the reliance on the judgment of the Supreme Court that, the caste verification committee has no jurisdiction to inquire into the matter. Further, in view of the law laid down by the Division Bench of this Court, as referred above, the request of the petitioner is liable to be considered by the respondent for issuance of Caste Certificate.

5. Having regard to the facts and circumstances of the case, as stated above, and taking into consideration the totality of the case on hand. I do not find any good grounds to sustain the impugned endorsements issued by the Tahsildar, Sringeri Taluk. Hence, both the impugned endorsements issued vide Annexures F. and G. cannot be sustained and hence, they are liable to be set aside.

6. Wherefore, the writ petition filed by petitioner is liable to succeed. Accordingly, the writ petition filed by petitioner is allowed. The impugned endorsements dated. 6th/31st August 2001 in No. 250(sic) 15: 2001-02 vide Annexure F. and dated 21st June 2002 in No. 250(sic) 15:2001-02 vide Annexure G. are hereby set aside and the matter stands remitted back to respondent herein to reconsider the matter and pass appropriate order in accordance with law, keeping in view the observations made by this Court and dispose of the same, if not already considered and disposed of, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this order.

7. With these observations, the writ petition filed by petitioner stands disposed of.