
(1959) 02 AP CK 0009

In the Andhra Pradesh High Court

Case No : Writ Petition No. 958 of 1958

T. Durgabai

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 10-02-1959

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1959 AP 426

Hon'ble Judges : P. Chandra Reddy, C.J.;Jaganmohan Reddy, J

Bench : Division Bench

Advocate : B.V. Subrahmanyam, V.V. Krishnamurthy and K. Venkata Ramana, for the Appellant; 3rd Govt. Pleader and P. Ramachandra Reddy, for the Respondent

Final Decision : Dismissed

Judgement

P. Chandra Reddy, C.J.—The petitioner seeks the issuance of a writ of Mandamus directing the respondents to include her as one of the selected candidates for the Pre-Professional Course in Medicine for the academic year 1958-59.

2. She applied for admission to the Pre-Professional Course claiming to belong to a community called "Konda Kapu" which is a scheduled tribe within the purview of the order issued by the President in or about 1950 classifying certain communities and tribes as scheduled castes and tribes for the purpose of affording educational facilities. The application was accompanied by two certificates of social status of the petitioner given by the First Class Magistrate, Vijayawada, which state that she belongs to a scheduled tribe, an extract of the first page of her S. S. L. C. Register and an extract from the birth register.

The entry in her S. S. L. C. Register described her as "Hindu" "Kapu". The birth extract sent by her stated that she belonged to the "Telaga" community. Having regard to all these discrepancies, the Selection Committee required the petitioner to produce a certificate showing that she was a Konda Kapu and a resident in the

scheduled areas. They further fixed her interview for 28-7-1958.

At the interview, she produced a Nativity certificate from an Honorary Presidency Magistrate, Madras, counter-signed by the Collector of that place reciting that the parent of the candidate for admission into the college had his permanent residence in the village Kasavaram, Bhadrachalam Taluk, East Godavari District in the State of Andhra Pradesh. The Selection Committee was not satisfied with this certificate, obviously for the reason that neither the Honorary Magistrate nor the Collector of that place had any means of knowing of the community or the residence of the applicant's father.

They seemed to have felt that the certificates should be by any of the officers enumerated in the annexure to the G. O. of the area within whose jurisdiction the applicant or her father was a resident at the relevant time. In short, the Selection Committee reached the conclusion that the social status certificates produced by the applicant had not established that she was a "Konda Kapu" and that she or her father was a resident of the scheduled areas. However, the Committee thought of affording another opportunity to the applicant to show that she satisfied the rule and they gave her time till the 30th to produce the certificates as required by the G. O. in proof of her belonging to the "Konda Kapu" community and residing in the scheduled area.

No attempt was made to satisfy the Selection Committee about this condition within the time allowed with the result that the Selection Committee had not included her name in the list of selected candidates and the petitioner was informed of the result both in person and in writing.

3. Sometime thereafter she sent a nativity Certificate to the Principal of the Medical College purporting to have been issued by a member of the Legislative Assembly and another by the Karnam of that place counter-signed by the Personal Assistant to the Collector. The Principal suspected the genuineness of the certificates that the petitioner's parent was still a resident in the scheduled areas.

He also thought, having regard to the considerations pointed out by him, that there was no reason to change the original recommendation made by the Selection Committee. Thereafter, the applicant-petitioner has moved this Court under Art. 226 of the Constitution for the reliefs mentioned above.

4. Two contentions are raised before us by the learned counsel for the petitioner. The first is, once there was a social status certificate issued by the First Class Magistrate belonging to the area in which the petitioner resides, the truth or otherwise of it could not be investigated into by the Selection Committee. The Selection Committee was bound to accept the social status certificate and include her name in the list of selected candidates leaving it to the Principal of the College to hold an enquiry in the event of his having reason to believe that the certificate was falsely obtained.

The stage of selection of a candidate is not the stage of investigation into the correctness or otherwise of the contents of the social status certificates. Secondly, it was not competent for the State Government to restrict the benefits conferred by the order issued by the President of India only to those living in the scheduled areas by varying that order. It is urged that this limitation was imposed by the State Government by amending the order of the President.

5. We do not think we can accede to the proposition enunciated by Sri Subrahmanyam on the first point. The rules framed by the concerned Government for selection of candidates to Pre-Professional Course in Medicine and to the M. B. B.S., course cast a duty on the Selection Committee to draw up a list inter alia of applicants belonging to scheduled castes and scheduled tribes. Under the Rule 10, the Selection Committee should exercise the powers and functions set out in that rule.

6. Clause (iii) of Rule 10 (b) provides:

"At the interview, it shall verify the data furnished by the candidates in their applications and other documents and allot marks to the candidates for their extra curricular activities etc" Rule 12 says:

The Selection Committee shall adopt the following procedure in making selection of candidates:

It shall draw up in order of merit for each region and in respect of seats reserved for candidates from Marathawada and Karnatak areas of former Hyderabad State list of all candidates interviewed by it and after including marks allotted to the candidates for their extra curricular activities. This list should show classification of the candidates as women (General), women (scheduled castes and Tribes), Men (General) Men (Scheduled Castes and Tribes) and Men (Backward Classes). From such list, the selection shall be made as follows:

(i) Candidates belonging to Scheduled Caste and Scheduled Tribes both men and women shall be selected to the extent of seats reserved for them.

(ii) Candidates belonging to the socially and educationally Backward Classes both men and women shall be selected to the extent of seats reserved for them.

x xx x x"

7. It is thus clear that the rules contemplate a decision by the Selection Committee as to whether a particular candidate belongs to a scheduled Caste or a Scheduled Tribe. There is no warrant for the assumption that the Selection Committee is bound to act on the social status certificate produced by a candidate and select him or her and later on an enquiry should be started by the Principal into the truth or otherwise of that certificate.

If, on the material placed before the Selection Committee, it is not satisfied with the certificate, surely it is within its power to reject the claim of the candidate. In this particular case, there can be no doubt that the certificates produced by the

petitioner do not represent the real state of affairs. As we have already pointed out, the entry in her S.S.L.C. Register clearly indicates that she is not a "Konda Kapu", but a Kapu which educationally is a very much advanced community.

The copy of her birth extract also shows that she belongs to the "Telaga" community which is the same as the "Kapu" community. Further, enquiries revealed that till the relevant time, the applicant's father was describing himself either as belonging to "Telaga" or "Kapu" community. The Municipal Register also demonstrated that the applicant and her father were Telaga". It is alleged in the counter-affidavit that the father of the applicant had ten children out of whom nine are surviving and all of them were described in the Municipal Registers and the Hospital registers as Telagas and Naidus. Similar descriptions of the children were given in the school registers. It is plain that the applicant thought of calling herself a "Konda Kapu" with a view to get advantage of the G. O, The order of the President was promulgated with a view to help educationally backward communities and persons residing in the scheduled areas and not to help candidates belonging to educationally advanced communities. Indisputably, the applicant had not even the remotest chance of being selected on the basis of the marks obtained by her. It is for this reason that she had resorted to this device of describing herself as a "Konda Kapu".

8. The decision of this Court in Katragadda Ganganna Vs. The Principal, Andhra Medical College, Visakhapatnam and another, relied on by the petitioner has no application to the facts of the present case. There, the candidate was included in the preliminary list of candidates drawn up by the Selection Committee as eligible for admission from Region I and after interview, he was placed in the fifth rank. After the selection, the Chairman of the Selection Committee submitted the name of the petitioner for decision of the Government on the question of the validity of the nativity certificate.

The Government called upon the candidate to adduce evidence in support of the nativity certificate and the same was furnished. Pending the decision of the Government the candidate asked for the issue of a writ of mandamus on the ground that the respondents did not follow the procedure prescribed by the rules made by the Government. The learned Judges accepted the contention of the petitioner there in the view that the scheme for selection and admission did not permit any enquiry as regards the correctness of the nativity certificate either by the Selection Committee or by the Government, since the certificate given by the prescribed Officer was prima facie to be accepted as correct and the selection was to be made on that footing.

9. The Principle laid down in that case does not govern the case on hand for the reason that the ruling is based on the rules relating to nativity certificate. Rule 14 (b) of the concerned rules runs as follows:

"The Principal of the College concerned shall before actual admission of a candidate allotted to the College, take steps to verify the correctness of the

nativity certificate and the authenticity of the marks statement produced by the candidate. The candidates in respect of whom the nativity certificate is pending verification, may not actually be admitted and no fees may be collected from them till the verification is over but they may be permitted to attend the classes." It is this rule that formed the basis of the judgment in the case cited. It is significant that there is no analogous provision with regard to the social status certificate. The Principal is not required by the Rules to verify the correctness of the social status certificate. On the other hand, the responsibility is thrown on the Selection Committee to verify the data furnished by the candidates in their applications and other documents.

In these circumstances, we are unable to agree that the Selection Committee should automatically include the applicant's name in the list of selected candidates, provided that some social status certificate is put before the Committee. The Committee has to be convinced that the candidate really belongs to the Scheduled Caste or the Scheduled Tribe.

10. That apart, the extraordinary jurisdiction conferred on this court under Article 226 of the Constitution is to be exercised only in furtherance of justice. Where the petitioner has not suffered any injustice as a result of an order of any Tribunal, this court will be reluctant to interfere, even assuming that there is some infraction of certain rules.

We have already pointed out that there can be little room for doubt in this case that the petitioner does not belong to the "Konda Kapu" community and that she belongs to the Telaga" community which educationally is quite advanced. The very purpose of the Government Order would be defeated, if she is able to obtain an advantage by resorting to a fraud, over really deserving candidates. On that ground also, no relief will be afforded to the petitioner.

11. In the view we have taken on the first point, it is unnecessary for us to examine the soundness of the second contention.

12. In the result, the writ petition fails and is dismissed with costs. Advocate's fee is fixed at Rs. 250/-.