

(2016) 10 KAR CK 0029

In the Karnataka High Court

Case No : Writ Petition No. 202171 of 2016 (S-TR)

Vice-Chancellor University of Agricultural Sciences

APPELLANT

Vs

Karnataka State Commissioner for SC & ST

RESPONDENT

Date of Decision : 04-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 AirKarR 390

Hon'ble Judges : Mr. B.S. Patil, J.

Bench : Single Bench

Advocate : Sri. G G Chagashetti and I.R. Biradar, Advocates, for the Respondent No. 2; Sri. Roja Amresh Sharanappa, Advocate, for the Petitioners; Sri. Huleppa Heroor and Sri. C. Jagadish, Advocates, for the Respondent No. 1

Final Decision : Partly Allowed

Judgement

B. S. Patil, J. - This writ petition is filed challenging the order dated 24.05.2016 passed by the Karnataka State Commission for Scheduled Castes and Scheduled Tribes, Bangalore (for short, "SCs & STs Commission"). By the impugned order the Commission has issued certain directions to the petitioners viz, the Vice-Chancellor, University of Agricultural Sciences, Raichur, the Dean, College of Agriculture, Bheemarayanagudi, the Registrar of the University, the Comptroller of the University and the Director of Education of the University. It is useful to extract the portion containing the directions issued in the impugned order.

1. To set right the complainant promotion pending before this authority, the complainant already submitted the report of promotion of CAS 2006.
2. To release the 2 years salary (pending salary) with all consequential benefits from June- 2013 to July-2015.
3. To direct respondent No.1 to issue NOC to study higher education - P.hd., at Manasagangothri, Mysore with salary.

4. To effect the transfer as per Government Order to the joint couples.

5. To grant increments from 2011 to 2016.

2. As can be further seen from the impugned order, petitioners herein have been directed implement the above-mentioned directions within ten days from the date of receipt of directions. It is also made clear that, if the petitioners failed to comply with the directions, the complainant could initiate criminal proceedings under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the respondents.

3. Learned counsel appearing for the petitioners strongly contends that SCs & STs Commission has no power or jurisdiction to issue such directions and therefore the directions issued are illegal and unsustainable in law. Learned counsel appearing for respondent No.2 Sri. Chagashetty relies on the provisions contained in Sections 8 and 10 pertaining to functions and powers of the commission to urge that the commission has committed no wrong in investigating the grievance made by the second respondent and issuing appropriate directions for redressal of the said grievance. The counsel appearing for the Commission Sri. Huleppa Heroor has strongly supported the order passed by the Commission.

4. The dispute between the second respondent and the petitioner-University has arisen in the background of a transfer order issued on 4.6.2013 whereby the second respondent was transferred from Koppal to Bheemara-yanagudi to work as Assistant Professor in Entomology. Respondent No.2 challenged this by filing writ petition before the High Court of Karnataka, Dharwad Bench. An interim order was obtained on 17.06.2013. However, the University claimed that he had been already relieved on 16.06.2013. Subsequently, the transfer order was withdrawn on 07.08.2013. The writ petition was consequently disposed of. Later on, second respondent was re-transferred on 8.8.2013 from Koppal to Bheemarayanagudi. This was again questioned in W.P. No.83159/2013. There was no stay. As the second respondent failed to report for duty at Bheemaranayanagudi, Registrar of the University-petitioner No.3 herein has passed an order initiating disciplinary enquiry against the second respondent. This was challenged by filing W.P. No. 106276/2014. Subsequently, both writ petitions have been withdrawn by the second respondent on 21.07.2015. In the meanwhile, second respondent approached the SCs & STs Commission airing his grievance regarding the prejudice and hardship he had been subjected to. By the impugned order the Commission has issued the aforesaid directions.

5. As rightly contended by the learned counsel for the petitioners, provisions of the Karnataka State Commission for Scheduled Castes and Scheduled Tribes Act, 2002 does not clothe the Commission with the power of issuing directions as have been now issued. Functions of the Commission shall be to investigate and examine the working of various safeguards provided for the welfare and protection of the Scheduled Castes and the Scheduled Tribes in Karnataka State

in terms of the Constitutional provisions or any other law or for that matter rules framed. The Commission inquires into specific complaints with respect to deprivation of rights and safeguards of SCs & STs in Karnataka; takes up such matter with the appropriate authorities; makes recommendations as to the measures that should be taken by the State for effective implementation of safeguards and for protecting the welfare and socio-economic development of SCs & STs.

6. Though the Commission has been vested with power of Civil Court, it is only in the matter of investigation and is confined to summoning and enforcing the attendance of witnesses, discovery and production of any document, receiving evidence on affidavits etc., as is apparent from Section 10. Therefore, while the Commission can examine the grievance of the petitioner-second respondent herein and make appropriate recommendations and also take up the matter with the higher authorities, it has no power to issue positive directions as has been done in the instant case.

7. Hence, the directions issued cannot be sustained in law as they are beyond the power and jurisdiction of the Commission. Therefore, the directions issued deserve to be set aside. Accordingly, they are set aside. Having regard to the nature of the dispute between the University and the second respondent who is working as Assistant Professor and keeping in mind the fact that second respondent has joined his duties at Bheemarayanagudi and has been indeed permitted to pursue his Ph.D. in accordance with the regulations, this Court hopes and trusts that, both parties will address their grievance in an amicable atmosphere and the second respondent continues to discharge his functions in an atmosphere of harmony and peace. The University is therefore well advised to take a proactive role in the matter and put an end to the controversy for which the second respondent shall Co-operate. The writ petition/is accordingly partly allowed.