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P. Gnana Kumar Vs. Joint Collector and Additional Magistrate (Fac), Nizamabad and Others

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Court : Andhra Pradesh

Decided On : Feb-23-2000

Reported in : 2000(2)ALD575; 2000(3)ALT405

Judge : Goda Raghuram, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : WP No. 17463 of 1993

Appellant : P. Gnana Kumar

Respondent : Joint Collector and Additional Magistrate (Fac), Nizamabad and Others

Advocate for Def. : Government Pleader for Social Welfare

Advocate for Pet/Ap. : Mr. J. Siddaiah, Adv.

Judgement :

ORDER

1. The petitioner a tracer in the office of the Deputy Executive Engineer, MIP Survey Sub-Division No.4, Irrigation Department, Nizamabad, assails the order of the Joint Collector and Additional Magistrate, Nizamabad in proceedings dated 2-

11-1993 cancelling the certificate dated 26-10-1978 issued to the petitioner by the Tahsildar, Bodhan, certifying the petitioner as belonging to scheduled caste 'Madiga' community. The petitioner states that his ancestors belonged to SC community (Madiga) but his father converted to Christianity. On attaining majority the petitioner is stated to have converted back to Hinduism and thus claims to be a Hindu and consequently restoration of the original caste of Madiga of SC community. The petitioner also states that he became a member of Arundhathi Bandu Seva Mandali, Nizamabad, in the year 1980 and presently is organising secretary of the same. The petitioner further avers that his wife hails from Madiga caste, that her parents are continuing in the same caste and that the petitioner is a life member of Dr. Ambedkar Dalit Seva Sangam, Nizamabad branch, over the past 7 years.

2. The Irrigation Department Employees Union, Nizamabad, preferred a complaint dated 20-3-1992 that the petitioner has obtained employment as a tracer on the footing of a false caste certificate as a member of SC community despite being a Christian and requested investigation into the issue. Consequently the matter was referred to the Sub-Collector, Bodhan, for enquiry and the Sub-Collector submitted his report dated 19-5-1993 stating that as per the TC produced by the petitioner he is found to have been recorded as being 'Indian Christian'. In the said report it is also stated that an enquiry into the social status of the petitioner's father Sri P. Isaac was called for from the MRO, Yedpally, since he was residing in the said village and that the MRO submitted his report dated 2-12-1992 according to which the petitioner's father belongs to Christian community and not scheduled caste, that the family continued to pray at Church, that the two daughter-in-laws of Sri Isaac are from Guntur District and belong to Christian community and also that the President of Dr. Ambedkar Dalitha Seva Sangam, Yedapally Branch, has in writing certified that Sri Isaac is not from SC community but is a Christian and his children are also Christians.

3. The MRO also has certified that the petitioner belongs to Indian Christian community and not to SC community. Consequently in the report dated 19-5-1997 the Sub-Collector, Bodhan, categorically found that the petitioner belongs to Christian community and that he showed his community as SC for the purpose of

obtaining employment.

4. In the circumstances, apropos the powers conferred upon him in G.O. Ms. No.282 Social Welfare Department, dated 19-12-1988, the 1st respondent issued a show-cause notice dated 5-4-1993, calling upon the petitioner to submit his explanation. The petitioner submitted his explanation dated 3-5-1993 reiterating the facts already adverted to. In addition thereto the petitioner submitted that entertaining a doubt as to his caste certificate at the time of employment an enquiry was ordered and the Tahsildar. Bodhan, conducted a detailed and thorough enquiry and by the report dated 8-1-1980 informed the employer that the petitioner belongs to SC community and confirmed the validity of the certificate issued earlier and that in the circumstances conduct of repeated enquiries into the same issue would constitute an arbitrary conduct. The 1 st respondent conducted an enquiry and an explanation of the petitioner was also heard.

5. After examining the entire record and discussing several aspects of the matter in detail the 1st respondent came to the conclusion that the petitioner does not belong to SC (Madiga) community and that he belongs to Christian community. The alleged membership of the petitioner of the two institutions was disbelieved on account of noticed discrepancy between the duration of his membership vis-a-vis the registration and coming into being of the associations of which membership was claimed. The asserted reconversion into Hindu fold, in the year 1976 under the aegis of Aryasamaj, was disbelieved by the I st respondent in the absence of any proof vouchsafed by the petitioner. The petitioner's assertion that his wife and her parents belong to and continued to be of Madiga caste was not given credence to in the absence of the petitioner producing any certificate as asserted, to establish the said fact.

6. In the totality of circumstances and in view of the petitioner's admission that he was a Christian but later converted to Hindu community, in respect of which no evidence was adduced, the 1st respondent was constrained to and did come to the conclusion that the petitioner docs not belong to SC Community (Madiga) but is a Christian. Consequent on these conclusions which are based on an appreciation of the evidence available on record, the 1st respondent cancelled the

caste certificate issued by the Tahsildar, Bodhan on 26-10-1978.

7. Apart from reiterating the pleas advanced by the petitioner in his explanation as well as in the enquiry as have been adverted to above, Sri J. Siddaiah, learned Counsel for the petitioner would submit that the illegality of the 1st respondent in not himself conducting an enquiry and merely relying upon the reports of the factual enquiry conducted by the MRO, Bodhan and Sub-Collector, Bodhan, vitiates the conclusions and findings arrived at. This contention does not appeal to this Court. It is settled law that a fact finding enquiry or a part of it could be delegated to any other authority so long as the report of such other authority including the material on which the conclusions are based are examined by the authority competent to decide the matter. The mere entrustment or delegation of a part of the enquiry to another would not vitiate the exercise of administrative decision making -see Pradyat Kumar Base v. The Hon'ble Chief Justice of Calcutta High Court, where the relevant principle is elucidated as under:

'It is well recognised that a statutory functionary exercising such a power cannot be said to have delegated his functions merely by deputing a responsible and competent official to enquire and report. That is the ordinary mode of exercise of any administrative power. What cannot be delegated except where the law specifically so provides-is the ultimate responsibility for the exercise of such power.'

8. The parameters of curial review of administrative orders under Article 226 of the Constitution are too well recognised. In the absence of any vitiating factors like the finding being based on no evidence or on perverse appreciation, an administrative decision is not liable to invalidation nor is liable to be interdicted by this Court under Article 226 of the Constitution. An analysis of the order impugned discloses no such error vitiating the conclusions arrived at by the 1st respondent. This Court is unable to discern any error in the application of law or of discretion in the order impugned, warranting interference.

9. Learned Counsel for the petitioner would, however, contend that as the consequences of this order would have serious repercussions on the career of the petitioner, he should be permitted liberty to request the 1st respondent for

reconsideration of the order on the basis of any evidence that the petitioner may choose to submit before the 1st respondent. We make no direction in this regard. The petitioner is at liberty to make a representation/application seeking reconsideration of the order impugned herein and if the representation/ application of the petitioner commends itself to the 1st respondent on merits, the respondent may consider the same in accordance with law.

10. In the circumstances aforesaid there are no merits in the writ petition, which is accordingly dismissed. No costs.

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