

In Re: Banala Kondiah

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Court : Chennai

Decided On : Apr-29-1943

Reported in : AIR1943Mad649; (1943)2MLJ175

Appellant : In Re: Banala Kondiah

Judgement :

ORDER

Kuppuswami Aiyar, J.

1. These are references fey the District Magistrate of Nellore for setting aside the order in C.G. Nos. 6, 7' and 38 of 1943 on the file of the Stationary Submagistrate of Kavali convicting the accused in those cases for offences punishable under Section 22(1)(b) of the Criminal Tribes Act and sentencing every one of them to 2 months' rigorous imprisonment. The charge against them was that the manager of the Bitragunta Settlement directed the accused in these cases to send their children to the A.B.M. School and that they did not send the children to the School after the 20th October, 1942, when the schools reopened after the. holidays. The. learned District Magistrate points out that they cannot be punished for refusing to send their children to school and therefore the conviction is illegal. Under Section 22(1) [b) of the Criminal Tribes Act, if any registered member of a criminal tribe contravenes any rule made under Clause (e), (g) or (h) of Section 20 he shall be punishable with imprisonment for a term which may extend to two years on a second conviction. Under Section 20 of the same Act, the Provincial Government

may make rules to carry out the purposes and objects of this Act and such rules may provide for and regulate (2-0) ' the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under Section 11 or Section 12', under (g) ' the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined, or the area to which their movements are restricted ' and under (h) 'the conditions to be inserted in any such pass in regard to

(1) the places where the holder of the pass may go or reside;

(2) the persons before whom, from time to time, he shall be bound to present himself; and

(3) the time during which he may absent himself.' There is nothing in any of these to show that they have any reference to any provision made for directing the children of such settlers to be sent to any school. In these circumstances it cannot be said that the failure to send the children to school as directed by the manager would amount to a contravention of any rule made under Clause (e), (g) or (h) of Section 20 of the Act. In these circumstances the convictions are invalid and they are set aside and the accused in all these cases are acquitted.

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