

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

T.W.D. – Appeal Petition filed Sri Palagada Narasa Rao S/o Chinnaiah, Occ: Asst.Branch Manager, Andhra Bank, Uppugundur, filed under Section 7(2) of Act 16 of 1993, against the Proceedings of the District Collector, Prakasam, dated 17.8.2004 - Appeal Rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 81

Dated: 24.10.2006
Read the following:

- 1.Proceedings of the Collector, Prakasam Dist. No.C4/2388/89, dated 17.8.2004
- 2.Appeal Petition filed by Sri Palagada Narsa Rao S/o Chinnaiah, dated 15.10.2004.
- 3.Govt.Memo No.10003/CV.2/2004-1, dated 2.12.2004.
- 4.From the District Collector, Prakasam, Lr.(M) Rc.C4/62/2005, dt.22.2.2005.
- 5.Govt.Memo No. 10003/CV.2/2004-3, dated 1.8.2006.

ORDER:

Sri Palagada Narasa Rao S/o Chinnaiah, Emp. in Andhra Bank, has filed Appeal Petition before Govt. against the orders of the District Collector, Prakasam, canceling ST caste certificate issued to him, with following grounds.

GROUND FOR APPEAL:

1. The Collector and District Magistrate, Prakasam has passed the impugned orders without causing any enquiry in to the caste of the appellant.
2. The Joint Collector called the appellant for an enquiry and has recorded the statement of appellant. Apart from this, no Committee has been constituted as stated in the impugned orders.
3. The Collector, Prakasam has failed to appreciate the statement of the appellant, which was made during the course of enquiry before the Joint Collector.
4. The reliance placed by the Collector, Prakasam for canceling the caste certificate issued to the appellant on the strength of the report of the MRO that 'Kammaras' in Prakasham District are being treated as Backward Class is absolutely incorrect and against the Judgment of the Hon'ble High Court in WP No.1529/97 and W.P. No.24699/1997 and the Circular Memo No.984/CV2/98-3, dated 23.07.1999.
5. The impugned orders passed by the Collector, Prakasam canceling the caste certificate issued to the appellant on the ground that the MRO is not the competent authority to issue the Caste Certificates for 'Kammaras' is not supported by any law. Moreover, even assuming that the MRO has committed a mistake in issuing the Caste Certificate, the Collector, Prakasam ought to have set the clock back to its original position to enable the appellant to secure a fresh Caste Certificate from the competent authority. For the mistake committed by the authorities, the appellant cannot be punished.
6. The impugned orders passed by the Collector, Prakasam canceling the Caste Certificate issued to the appellant holding that the Characteristics of 'Kammaras' in agency areas are not identical to the family of individual, are contrary to the guidelines issued by the Government in Memo dated 23.07.1999. Moreover due to efflux of time, there may be some changes in the characteristics, but the social status of the particular community will not change. In the instance case, a bare reading of the statement made

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by the appellant clearly goes to show that the family of the appellant still has the characteristics of 'Kammara' as stated above.

7. The appellant prayed the Government to set aside the proceedings of the Collector and District Magistrate, Prakasam of Ongole in Rc.No.C4/2388/89, dated 17.08.2004 and pass such other order or orders as the Hon'ble Court deems fit, proper and appropriate in the circumstances of the case.

STATEMENT OF DEFENCE:

2) The Collector and District Magistrate, Prakasam submitted the following as defense to the grounds claim of the appellant:

1. It is not a fact that the impugned orders passed by the Collector, Prakasam are bad in law and also against the settled principles of law and contrary to the facts on record. The Collector, Prakasam has passed the impugned orders after causing enquiry in to the caste of the appellant.

2. It is a fact that the Joint Collector, Ongole has called the appellant for enquiry and the appellant has attended the enquiry on 26-07-2004 wherein statement of the Appellant was also recorded. It is baseless to mention that no Committee has been constituted and it is fact that the District Level Scrutiny Committee was constituted long before with the Joint Collector as the Chairman and other District Officers as Members for enquiry and verification of fraudulent Caste Certificate obtained by various candidates in terms of G.O.Ms.No.58, dated 12-05-1997.

3. The Collector, Prakasam, has not failed to appreciate the statement of appellant, which was made during the course of enquiry before the Joint Collector, it was discussed in detail in the orders of the Collector, Ongole, C4/2388/89, dated 17-08-2004.

4. The appellant indicated that he hails from 'Kammara' (ST) Community and following the customs, but the characteristics are not identical to the Kammara Caste living in Tribal area.

5. It is baseless to mention that the Collector, Prakasam has cancelled the Caste Certificate of the appellant on the strength of the report of the Mandal Revenue Officer, that Kammaras are being treated as BCs in Prakasam District and also it is against the judgment of the Hon'ble High Court in W.P. No.1529/97 and W.P. No.24699/97 and Circular Memo No.984/CV2/98-3, dated 23-07-1999. The Certificates were cancelled basing on the findings of District Level Scrutiny Committee.

6. The Collector, Prakasam has cancelled the Caste Certificate on the ground that the Mandal Revenue Officer is not the competent authority to issue Kammara Certificate and not supported by law. In terms of letter No.112154/77 (H3), dated 01-07-1977 of the Director of Tribal Welfare, the authority not below the rank of Revenue Divisional Officer / Sub- Collector / Assistant Collector are only competent for issue of Kammara Caste Certificate.

7. It is also contended by the District Collector that it is baseless to mention that she has cancelled the caste certificate of the appellant holding that the characteristics of the Kammaras in agency area are not identical to the family of the individual living in plain area are contrary to the guidelines issued by the Government in Memo dated 23.07.1999.

3). The case was posted for hearing on 5.8.2006. On 5.8.2006, the appellant has

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attended the personal hearing before appellate authority, and argued the case. Heard the case on 5.8.2006.

4) Govt. after careful examination of the grounds of the appellant and arguments, and available records before Govt. and defence of the Collector, Prakasam, and observed the following facts:

5). The Government in its Circular Memo. No. 984/CV2/98-3, dt. 23.7.1999 honored the orders of the Hon'ble High Court of Andhra Pradesh and issued specific guidelines differentiating characteristics of Kammara tribe with the original habitat of scheduled areas and adjoining areas of Srikakulam, Visakhapatnam, East Godavari and that of Kammara or Kammari in other plain areas where it is recognized as Backward Class community.

5(A) A perusal of the record reveals that there was enough reason for proceeding with the enquiry against the alleged false Tribe certificate obtained by the appellant from two of the employers of the candidate i.e., the Andhra Bank and the APSRTC. It is also noticed that the District Collector, followed the procedure established by the AP (SC, STs & BCs) Regulation of issue of community certificates Act 1993 and the Rules framed there under.

5 (B) The District Level Scrutiny Committee that met on 26.7.2004 deliberated the subject in sufficient detail and concluded that the ST certificate obtained by the appellant is not based on facts. Further the Scrutiny Committee also recognized that the ST certificate is invalid " ab initio" as the same was not issued by the competent authority. For these two grounds the DLSC. recommended cancellation of the ST certificate obtained by the appellant.

6). In this case, the Appellant Palagada Narasa Rao obtained Kammara Tribe Caste Certificate from the MPDO Singarayakonda on 11.10.99 and MRO Singarayakonda on 1.7.85. But, both these officers are not competent to issue Caste Certificates as per the circular instructions of the DTW in Ref.No.11254/77/H3, dated. 1.7.1977. Further, it is observed that both the DLSC., and the District Collector considered all the evidences in the case and concluded that as seen from the deposition of the characteristics of the appellants family living in plain area are not identical to that of Kammara tribes living in the agency areas. The cancellation of Caste Certificate ordered by the Collector & Dist. Magistrate, Prakasam District, based on the recommendations of DLSC. holds good.

7). Therefore, after thorough verification of the records and in exercise of the powers conferred under Section 8 (1) of (SCs, STs and BCs) Regulation of issue of Community Certificates Act. 16 of 1993, the appeal petition filed by Sri Palagada Narasa Rao, S/o. Chinnaiah,. Occ: Asst. Branch Manager, Andhra Bank, Uppugudur, R/o. Balayogi Nagar, Singarayakonda of Prakasam District is hereby dismissed and the orders issued by the Collector and District Magistrate, Prakasam in Proceedings Rc.No.C4/2388/89, dated 17.08.2004 are confirmed.

8). The records received from the Collector, Prakasam District, through the reference 4th read above, in original are returned herewith to the District Collector, Prakasam, and he is requested to acknowledge receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY,

SECRETARY TO GOVERNMENT

To

The District Collector,Prakasam District (WE)

Original Record, vide File No.R.Dis.C4/2388/1989, dated 17.8.2004

containing pages NF.1 to 148 and CF 1 to 198 cf.

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Sri Palagada Narasa Rao S/o Chinnaiah,
C/o K.Gopal Rao,
Vendodu (V), Guduru (Mandal),
Nellore District.

Copy to:

The MRO., Singarayakonda, Prakasam District.
for information.

The Deputy General Manager,
Andhra Bank (Head Office),

Dr.Pattabi Bhavan,

Adarsh Nagar, Hyderabad.

The PS to M(SW &TW)

The PS to Secretary (TW)

Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER