

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

T.W.D. – Appeal Petition filed by Sri Athivaram Subbaraju S/o Kondama Raju, Sullurpet, Nellore District – filed u/S 7(2) of Act 16 of 1993, against the Proceedings of the District Collector, Nellore, dated 15.10.2004 – Appeal rejected – Orders – Issued.

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SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 96

Dated:20-12-2006

Read the following

- 1.Proceedings of the Collector,Nellore District Rc.No.C5 (M)808/2000/2000, dated 15.10.2004.
- 2.Appeal Petition filed by Sri Athivaram Subbaraju S/o Kondama Raju, Sullurpet, Nellore District, through his advocate dated 26.11.2004.
- 3.Govt.Memo No.11299/CV.2/2004-1, dated 20.12.2004.
- 4.From the APHC. Orders dated 2.2.2005 in W.A.No.134/2005.
- 5.From the Dist.Collector, Nellore, Lr.Rc.No.C5(M)/2392/2004,dated 2.3.2005.
- 6.Govt.Telegram No.11299/CV.2/2004-6, dated 26.10.2006.

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ORDER:

On cancellation of caste certificate by the District Collector, Nellore, dated 15.10.2004, Sri Athivaram Subba Raju S/o Kondama Raju, Gangman in Southern Railway, has filed appeal petition along with stay petition before the Govt. Govt. has rejected the stay petition and call for the records and remarks from the District Collector, Nellore. Vide reference 3<sup>rd</sup> read above.

2. Aggrieved by the above orders, the appellant has filed WP.No. 25102 /2004 against rejection of stay application. The Hon'ble High Court in its order dated 31.12.2004 rejected the request of stay of District Collector order and directed to the Govt. to dispose the appeal within two months. The District Collector, Nellore, also furnished the records of the above case along with his remarks on appeal petition.

3. The appellant submitted following grounds in his appeal:

- (i) District Collector alone is competent authority to conduct enquiry under Section 4 of the Act.
- (ii) Burden of proof lies on the claimant who challenges the social status of the individual u/S 5 of the Act 1993.
- (iii) It is not tenable to suspect the caste certificate issued in 1987.
- (iv) Respondents failed to consider notarized affidavit and documentary evidences.
- (v) The observation of the District Collector, that he failed to bring his relatives during enquiry is erroneous since he had only documentary evidences

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4. The case was posted for hearing on 20.3.2006 and counsel of appellant attended before the appellate authority and requested for adjournment. The case was again posted for hearing on 29.9.2006, and appellant's counsel attended and requested for adjournment. The request of the appellant was considered and posted the case for hearing on 28.10.2006, which was subsequently postponed to 31.10.2006. The appellant and his counsel were present and they submitted written arguments and following documents at the time of hearing on 31.10.2006.

(i) Affidavit filed by Sri Polamanchi Jogaiah, (Son of uncle of his grand father) resident of Boddugudem (V) of Khammam District, dated 17.10..2006.

(ii) Caste certificate of Sri Polamanchi Jogaiah, Bodugudem, Khammam, issued by MRO., Badrachalam, dated 26.10.2006.

(iii) A Xerox copy of House hold card of Sri Polamanchi Jogaiah and his wise Smt. Badamma.

5. A close scrutiny of the documents filed by the appellant at the time of personal hearing and evidences available on record reveal that the appellant Sri Athivaram Subba Raju and his family members are called as "Kannarajulu" and they perform marriages according to Hindu tradition. and they are not Koyarajulu (ST). No evidence was produced to support the contention of the applicant that his ancestors migrated from agency area in Khammam District. On further verification of school records, it was observed from the Transfer Certificate Register that in Transfer Certificate No. 276181, dated 24.9.1975, nothing was mentioned against column No.5, i.e. whether the candidate belongs to SC or ST or Vimukthajathis or other Socially and Educationally Backward classes as specified in the A.P.Educational Rules, but in the duplicate TC issued to appellant, dated 8.8.81, "Koya" was mentioned with a different ink which clearly shows the evidence of tampering of School record. Further as seen from the Register of Admission and Withdrawals pertaining to the year 1973-74, against admission No.305, under col.No.15, Koya was subsequently added. The tampered parts of the script in the duplicate TC issued on 8.8.81 and the Admission Register are similar in nature. Therefore, it is evident from the duplicate TC Register and Admission Register, that Koya word was added subsequently i.e. on 8.8.81. Hence, as per the above recorded evidence and the report of the then MROs Tada and RDO, Gudur, the DLSC. came to a conclusion that the appellant managed to tamper the college records and got entered the caste name as Koya subsequently as an after thought though originally he does not belong to Koya (ST), and basing on the above Transfer Certificate, he obtained the ST Koya caste certificate from the then Tahsildar, and the then MRO, Sullurpeta by misrepresenting the facts. In order to gain benefits of reservation guaranteed by the Govt. for Scheduled Tribes, the appellant hatched up a plan to claim ST status by tampering the school records and obtained bogus ST caste certificate. The District Collector, has referred the matter to DLSC., as per Rule 9 of the A.P.(SC, ST & BC) Issue of Community Certificates Rules 1997, based on the report of the Chief Vigilance Officer, Southern Railway, Madras. Further there are many more evidences / records related to birth, relation of the applicant with Community, anthropological and ethnological traits, deity, customs, mode of marriages etc., which deserves a consideration while deciding the social status of an individual. However the appellant failed to produce any of these evidences before the DLSC. or District Collector in spite of giving ample opportunities.

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6. It is evident from the above facts, that appellant Mr.Athivaram Subba Raju belong to "Kannarajulu" and not "Koya Rajulu" (ST).

7. The appellant produced an affidavit by one Polamanchi Jogaiah S/o Muthaiah dated 17.10.2006 who is claiming to be a relative of the appellant. Without going in to dependability of the affidavit it can be stated that there is a significant difference in the versions of appealant and this Sri P.Jogaiah regarding migration of the ancestors of the appealant. While the appealant claims that his ancestors hail from Chandragiri of Chittoor District. Sri Polamanchi Jogaiah now vouches that the ancestors of the appealant emigrated from Bhadrachalam area of Khammam district. Thus it is apparent that the appealant is adducing desperate information as a last ditch effort to save his ST community certificate.

8. Therefore, after through verification of records and facts of this case and in exercise of the powers conferred under Section 7(2) of (SCs, STs and BCs) Regulation of Issue of Community Certificates, Act 16 of 1993, and Rules issued in G.O.Ms.No.58, SW (J) Department, dated 12.5.1997, the appeal petition filed by Sri Athivaram Subba Raju S/o Kondama Raju, is dismissed. The orders of the District Collector, Nellore, in Proceedings Rc.No. C5(M)/808/2000, dated 15.10.2004 are hereby upheld.

9. The records received from the District Collector, Nellore, in original are returned herewith to the District Collector, Nellore, 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,

Nellore District (WE) Original Record bearing No.

1.D.Dis (M) 808/2000 containing pages 355 cf and 23 nf.

2.D.Dis. (C4) 3318/98, dated 2.8.98 containing pages CF 26 and 4 nf.

Sri Athivaram Subbaraju S/o Kondama Raju,  
R/o SPE/33 B Railway Quarters,  
Sullurpet -524 121.

M/s C.Sai Gangadhar, Advocate,  
1-7-139/39, S.R.K.Nagar,  
Golkonda "X" Roads,Hyderabad 500 020.

Copy to:

The Senior Deputy Manager & Chief Vigilance Officer,  
Southern Railway, Vigilance Branch,  
Chennai 600003.

The PS to M(SW &TW) /PS to Secretary (TW).

Sf/Scs.

//Forwarded::By Order//

SECTION OFFICER