

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Trinath Majhi S/o Biswambar Majhi, Srikakulam District - under Section 7(2) of A.P. (SC, ST & BCs) Regulation of Issue of Community Certificate Act 16 of 1993 – against the Proceedings of the Collector, Srikakulam dt 8.10.2002 – Rejected – Order – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 49

Dated:1 -6-2004

Read the following:

1. Proceedings of the Collector, Srikakulam District Rc.No.928/99 C1, dated 8.10.2002.
2. Appeal Petition filed by Trinath Majhi S/o Biswambar Majhi, Srikakulam District before M(TW), dt.31.10.2002.
3. Govt. Memo No. 17353/CV.2/2002-1, dated 21.11.2002.
4. From the Collector, Srikakulam District. Lr Rc.No.928/99 C1, dated 12.3.2003
5. Govt.Memo No. 17353/CV.2/2002-3, dated 21.5.2003, 2.7.2003, 18.8.2003, & 7.11.2003.
6. Govt.Memo No. 17353/CV.2/2002-7, dated 9.2.2004.

ORDER:

On a petition received during the year 1996 alleging that Sri Trinath Majhi S/o Biswambar Majhi, Kusumpuram (v), Kaviti Mandal has obtained bogus Benthoriya (ST) caste certificate from the MRO., Kaviti and the then Tahsildar, Ichapuram of Srikakulam District and secured job as Tracer O/o Vamsadhara Project Circle, Srikakulam District, the matter was got enquired into in various stages as contemplated in accordance with relevant rules and it was established that the individual belongs to Oriya speaking Oriya Vaddi caste but not Benthoriya (ST). Based on, the said report of the Superintending Engineer, Vamsadhara, Srikakulam, has issued show cause notice to the individual. Aggrieved by the notice the individual Trinath Majhi has filed W.P.No. 19349/96 before High Court A.P., Hyderabad, and the Hon'ble High Court in the order dt.12.11.96 while allowing the W.P., set aside the notice. The A.P.High Court also indicated that this order does not preclude the respondent from holding an enquiry into the caste of the petitioner.

2) Accordingly the matter was referred to the MRO, Kaviti and RDO, Tekkali to conduct enquiry into the genuinity of caste of the individual in the instant case. The Revenue Divisional Officer, Tekkali has submitted report that he had conducted enquiry on the genuiness or otherwise of the caste of Sri Trinath Majhi and enquired the V.A.O., Kusumpuram and reported that these Oriya speaking people are called locally as Oriya "Oddilu" by the villagers. And also verified the Birth and Death Register of Kusumpuram (V) for the year of 1954 and 1960 and found that the caste of the person belonging to those whose sur name is Majhi was entered in Birth and Death Register against caste column "Oriya". Hence the Revenue Divisional Officer, Tekkali concluded that Sri Trinath Majhi S/o Biswambar Majhi belongs to "Oriya" but not "Benthoriya" community.

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3) Under Rule 9(1) of A.P. (SC/ST/BCs) issue of community, Nativity and Date of Birth Certificate Rules, 1997, the matter was referred to the Dist.Level Scrutiny Committee headed by Joint Collector Chairman for conduct of enquiry and to send the findings to the Collector.

4) The Chairman, DLSC. have issued notice in Form-VI to Sri Trinath Majhi to attend before the Dist.Level Scrutiny Committee on 18.01.2002 to furnish documentary evidence in support of his community claim. He attended on the date of hearing but nothing was submitted. The Joint Collector Chairman, DLSC. Srikakulam requested the Dist. Level Scrutiny Committee Members to conduct discrete enquiry into the caste of Sri Trinath Majhi of Kusimpuram (v) and to submit reports.

5) All the Officers have conducted enquiries in the matter and reported that the appellant Sri Trinath Majhi S/o Biswambar Majhi, Kusumpuram (V), Kaviti Mandal belonging to Oriya, Vaddi Caste by Birth and he had fraudulently obtained the false Benthoriya (ST) Caste Certificate by misleading and misrepresentation of the facts to the Revenue Authorities. The DLSC. issued notices to the individual to appear before the Dist.Level Scrutiny Committee on 18.1.2002, 15.2.2002, 5.3.2002, 3.4.2002, 25.4.2002, 3.5.2002 and 17.5.2002 with documentary evidence in support of his community claim that he belongs to Benthoriya (ST) Caste. The individual has appeared on all the said dates and submitted copies of caste certificate issued by the then Tahsildar, Ichapuram and MRO., Kaviti along with other papers. The DLSC. has obtained reports from Revenue Department as well as reports from the Committee Members. The committee perused all the documents filed by the individual with that of records available. The Committee has not been convinced that the individual belongs to Benthoriya by simply showing an unattested copy of voterlist of Kusumpuram (v) said to be of the year 1955. After perusing the records and reports the DLSC. has finally opined that the individual Sri Trinath Majhi S/o Biswambara Majhi, belongs to Oriya, Vaddi and recommended for cancellation of Benthoriya Caste Certificate fraudulently obtained by the individual.

6) Basing on the findings submitted by the DLSC., the District Collector, has issued notice to the individual to attend on 17.6.2002 duly enclosing a copy of committee report for making representation with supported documents. The individual attended on the day and requested time. Another opportunity was given to attend on 2.9.2002 with supported documents. The individual attended on that day before the Collector and presented his written arguments which he previously filed before the DLSC. reiterating the same thing. Since the written arguments were not convincing and not acceptable to the Collector, Srikakulam under Section 5(1) of the Act 16/93, cancelled the false Benthoriya Caste Certificate obtained from the then Tahsildar, Ichapuram and MRO, Kaviti by Sri Trinath Majhi S/o Biswambara Majhi of Kusumpuram (v), Kaviti (M) vide Collector, Proceedings 928/99 C1, dated 8.10.2002.

7) Aggrieved by the above said orders, the individual has filed appeal petition under Section 7(1) of Act, 16 of 1993 before Govt. Govt. in Memo dated 21.11.2002 granted Stay orders on the operation of proceedings issued by the Collector, Srikakulam Dist. and requested the Collector, Srikakulam to furnish para-wise remarks and connected records, the same have been furnished vide reference 4th read above.

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8) The case was taken up for personal hearing on 6.6.2003, 19.7.2003, 20.9.2003. The petitioner has attended for the personal hearing and requested for adjournment to obtain the additional information. The case was posted for next hearing on 6.12.2003. The petitioner and the counsel for the appellant have appeared for the personal hearing and made their arguments and requested for one more adjournment. Again the case posted for next hearing on 27.2.2004. The petitioner and the counsel for

the appellant have attended and made their arguments.

9) From the perusal of the records of the appeal ; cancellation orders passed by the District Collector and remarks of the District Collector, the facts of the case are as follows:

10) Classification of caste as SC/ST/BC was made as per the presidential orders 1950. The cases as noted in the records prior to 1950 or immediately after 1950 can be taken as genuine caste. The Scheduled Castes and Scheduled Tribes Amendment Act 1976 at S.No.17 the caste Benthoriya is included. From 1977 onwards several oriya speaking people are claiming themselves as Benthoriya. But prior to 1977 they claim their caste as Vaddi; odiya/oriya etc. They never claimed their caste as Benthoriya (ST).

11) The Government of A.P. have issued certain guidelines vide Government Memo No.22427/CV.2/5 dt.3.5.99 for issue of Benthoriya (ST) caste certificate in Srikakulam District:-

1) Benthoriya shall be treated as an independent and distinct tribe and the authorities concerned shall issue Benthoriya (ST) caste certificate without going into the requirement of establishing affinity with Kotia tribe.

2) The certificate issuing authorities are further directed that if the certifying authority is not able to establish the identity of the claimant, the authorities may issue Benthoriya (ST) caste certificate to those persons whose names are found recorded in the electoral Roll 1951 as the Benthoriya of their direct descendants.

12) The contention of the appellant is that he belongs to Benthoriya community. His school College records reflect his caste as Benthoriya. The enquiry report dt.14.11.99 of MRO, Kavali concluded that the appellant was Benthoriya. The MRO report dt.14.11.99 found affinity of his grandmother Smt. Lokhmi Majhi w/o Late Bollobo in the voter's List of Kusumpuram village 1951. But the appellant has failed to produce the original voter's list of 1951 of Kusumpuram (v). The Electoral Roll of 1951 was not available with the Archeological Department to know the caste people of Benthoriya.

13) The Benthoriya community is recognized as ST under the constitutional order 1950. But the Birth Register for the year 1947 and 1952 of Kusumpuram (v) shows that the ancestors in this family having the surname Majhi claimed their caste as oriya only.

14) The petitioner has given reasonable opportunity to produce evidence in support of his social status claim, it is clear that he failed to produce any basic documentary evidence like Birth and Death Extracts; genealogical information of his ancestors original Voter's List of 1951 of Kusumpuram(v) to prove that

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he belongs to Benthoriya community. On verification of records relating to pre-1950 year by the M.R.O's that the caste Benthoriya was not recorded in any of the records. In the Birth Register Kusumpuram(v) for the year 1954 to 1960, the caste of people with surname Majhi was recorded as Oriya.

15) On the above said facts, after hearing the arguments of the appellant through his counsel and after thorough perusal of the evidence on record, it is concluded that the petitioner is not entitled to

treated as Benth Oriya (ST) community.

16) Govt. after careful examination of the above facts and in exercise of powers conferred under Section 7(2) of A.P. (SC, ST &BCs) Regulation of Issue of community certificates Act, 16 of 1993 and the rules made there under, hereby reject the appeal petition filed by Sri Trinath Majhi S/o Biswambhar Majhi, Srikakulam District in the reference 2nd read above, up holding the proceedings of the Collector, Srikakulam District issued in the reference 1st read above, and the Stay granted to the individual hereby vacated.

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

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

M. CHAYA RATAN,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Collector & Dist.Magistrate,
Srikakulam District (WE) (Original record bearing Rc.No.
928/99 C1 containing pages CF.705 + NF 75 are return herewith).
Sri Trinath Majhi S/o Biswambhar Majhi,
R/o D.No.C/6, Vamsadhara Colony,
Amadalavalasa, Srikakulam District.
Sri B.M. Patro, Advocate,
Flat No. 102, Sri Sairam Enclave,
Ramnagar, Hyderabad -20.

Copy to:

The PS to M(TW)/ PS to Prl.Secretary (TW)
The MRO.,Kavity, Srikakulam District.
The Director, TCR &TI, Hyderabad.
Sf/SC.

//Forwarded::By Order//

SECTION OFFICER