

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT – Appeal Petition filed by Sri Divakar Sahu S/o Laxman Sahu, R/o Palakonda(M), Srikakulam Dist. Under Section 5 of A.P.(SCs, STs & BCs)Regulation of Issue of Community Certificate Act 16 of 1993 against the Proceedings of the Collector, Srikakulam District dated 13.4.2002 –Rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.06

Dated:20 -1-2004

Read the following:

1. Proceedings of the Collector, Srikakulam Dist. No.1200/99/C1, dated 13.4.2002.
2. Appeal petition filed by Sri Divakar Sahu S/o Laxman Sahu, Srikakulam Dated 26.4.2002 through his counsel , Sri V.Srinivas, Advocate.
3. Govt.Memo No.9551/CV.2/2002-1, dated 5.7.2002.
4. From the Collector, Srikakulam Lr.Rc.No.1419/2002/C1, dated 30.10.2002.
5. From the Govt.Pleader(SW)..,APHC Lr. W.A.No.1431/2002/Sw, dated 31.10.2002.
6. Stay petition filed by Sri Divakar Sahu S/o Laxman Sahu, Palakonda, Srikakulam Dist. dt.1.11.2002 through hic Counsel, Sri V.Srinivas, Advocate.
7. Govt.Memo No. 9551/CV.2/2002-4, dated 18.2.2003.
8. Govt.Memo No.9551/CV.2/2002-3, dt.9.12.2002, 10.3.2003, 8.4.2003, 26.5.2003, 2.7.2003 & 13.8.2003.
9. Govt.Memo No.9551/CV.2/2002-10, dated 7.11.2003.

ORDER:

Sri Diwakar Sahu S/o Sri Lakshmana Sahu of Allena (V) Burja Mandal has obtained 'Holva'(ST) Caste Certificate from the then Tahsildar,, Palakonda and secured a job in Sri Visakha Grameena Bank, Korasavada Branch. On an allegation petition received during the year 1985 against possession of false ST Caste Certificate by the individual, the matter was got enquired into and it has established that the individual belongs to Oriya Brahmin but not Holva (ST). Sri Visakha Grameena Bank was requested to take disciplinary action against the individual for having obtained a job on the basis of false certificate. The RDO, Palakonda has cancelled the Caste Certificate of the individual. Aggrieved by the orders, the individual has filed W.P. 6635/97 in the High Court of A.P., Hyderabad. The Hon'ble High Court while disposing of the W.P., have made the following Order;

“ The 1st respondent (Chairman, Sri Visakha Grameena Bank) shall not take any action in pursuance of the show cause notice dt.24.3.1997 issued to the petitioner, pending representation of the petitioner before the 2nd respondent i.e., Collector, Srikakulam in regard to the matter of his belonging to a particular community and that the 2nd respondent is

directed to dispose of such representation or the question, within two months from the date of communication of the order”.

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2. As per the Provisions of AP. (SCs, STs & BCs)Regulation of Issue of Community Certificates Act, 1993 and rules made there under, the matter has been referred to DLSC. The DLSC have issued notice in form-VI to Sri Divakar Sahu to attend before the said Committee on 27.11.99 and furnish documentary evidence in support of his community claim. The individual has attended the hearing before DLSC. and not submitted any documentary evidence in support of his community claim except xerox copy of Caste Certificate issued by the then Tahsildar, Palakonda in the year 1983. After perusing the records and reports the DLSC. has finally opined that the individual, native of Allena (V) Burja (M) belongs to Oriya Brahmin caste by birth but not Holva(ST) Community and recommended for cancellation of ST Caste Certificate of the individual. Based on the DLSC report and the powers conferred u/S 5(1) of the said Act (Act No 16 of 1993), the false Holva (ST) Certificate obtained by Sri Diwakar Sahu has been cancelled.

3. The petitioner has filed W.P. No.8440/02 before the Hon'ble High Court of A.P.,Hyderabad. The Hon'ble High Court has disposed of the W.P. by its order dt.26.4.2002, permitting the petitioner to file an appeal before the Appellate Authority within a period of three weeks.

4. In the reference 2nd read above Sri Divakar Sahu, S/o Laxman Sahu, R/o Palakonda, Srikakulam District, who is an employee in Sri Visakha Grameena Bank, Korasavada Branch have filed an appeal petition through his Counsel Sri V.Srinivas, Advocate under Section 5 of the said Act (Act No.16/93) before the Government against the Proceedings of the Collector, Srikakulam District in reference 1st read above, in which his bogus “Holva” ST Caste Certificate dt.12.7.83 obtained from the then Tahsildar, Palakonda, has been cancelled and declared that he belongs to “Oriya Brahmin”. The Appeal Petition filed by Sri Divakar Sahu in the reference 2nd read above has been taken on file.

5. When the Appeal Petition of the Appellant is under examination of the Govt., the appellant in the mean while, has filed W.P. 16140/02 in the High Court, seeking to declare the inaction of the State Govt., in not passing any order on the Stay petition filed by him along with statutory Appeal. The Hon'ble High Court in its order dt.28.8.2002 in W.P.No.16140/2002 have dismissed the W.P. Again the appellant has filed W.A. No.1431/2002 in the Hon'ble High Court against the judgment dt.28.8.2002 in W.P.No.16140/2002. After hearing the matter, the Hon'ble High Court has not inclined to enquire into the dispute whether the Stay Petition had been filed or not, however permitted the petitioner to file the Stay petition by tomorrow i.e., 1.11.2002 and further directed that the Stay petition should be disposed of by providing an opportunity of hearing either to the petitioner or his Counsel and until the disposal of the Stay petition, the orders of the District Collector are directed to be suspended and ordered that the appeal should be disposed of only after the disposal of the Stay Petition.

6. As per the orders of the High Court of AP., in W.A.No. 1431/2002, the Appellant has filed Stay petition through his Counsel, Sri V.Srinivas, Advocate u/S 7 (3) of the said Act before the Govt. for consideration. The Stay petition filed by Sri Divakar Sahu, has also been taken on file.

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7. The case has been posted for personal hearing on 30.12.2002 at 3.00 p.m. before the Government. Both the appellant and the Counsel for the appellant have appeared for the personal hearing. After hearing their arguments, Stay orders on the operation of the Proceedings of the Collector, Srikakulam Dist. have been granted in the reference 7th read above. The Government have taken up for further personal hearing on 28.3.2003. The Counsel for the appellant has appeared for the personal hearing and requested for adjournment. The last and final chance of hearing of the appellant has been given on 29.4.2003. Both the appellant and the Counsel have attended the hearing but not submitted any material paper before the Govt. Further the case has been posted for next hearing on 7.6.2003. But the hearing could not be taken place due to administrative grounds. Again the case has been posted for next hearings on 18.7.2003, 19.9.2003 and 5.12.2003. Neither the appellant nor the counsel for the appellant have attended for the last personal hearing held on 5.12.2003.

8. Though the reasonable opportunity has been given to the appellant to produce evidence in support of his social status claim to the Govt., he has failed to produce any documentary evidence in support of his "Holva" Caste and no substantial recorded proof has been produced to establish his social status claim.

9. After perusal of the material available on record, it has been observed that the appellant has not filed any basic recorded documentary evidence in support of his social status claim and therefore confirms the orders of Collector, Srikakulam District issued in the reference 1st read above and decided that the appellant do not belongs to ST "Holva" Community.

10. Government after careful examination of the above facts and material paper available on record and in exercise of the powers conferred under Section 7(2) of AP. (SCs, STs & BCs) Regulation of Issue of Community Certificates, Act, 1993 (Act No 16 of 1993) and rules made there under, hereby reject the Appeal Petition filed by Sri Divakar Sahu, S/o Sri Laxman Sahu, Allena (V) Burja (M), Srikakulam District in the reference 2nd read above, vacate the Stay granted to the appellant in the reference 7th read above on the Stay petition filed by the appellant in the reference 6th read above and uphold the proceedings of the Collector, Srikakulam District issued in the reference 1st read above.

11. The records received from the Collector, Srikakulam District through the reference fourth 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,
PRL.SECRETARY TO GOVERNMENT

To
Sri Divakar Sahu,S/o Laxman Sahu,
Allena (V), Burja (M),
Srikakulam District.
(through his Counsel for the appellant Sri V.Srinivas, Advocate)

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The Collector & Dist.Magistrate,
Srikakulam District.(WE) (Original Records bearing Nos. M.D.Dis.1200/99/C1,
containing (Pages CF.1-348 and NF.1- 46)
The Mandal Revenue Officer,
Burja (M), Srikakulam District.
(with a request to serve the individual copy to the appellant
and send Acknowledgement to Govt.)
Mr.Vedula Srinivas,Advocate,
H.No.62/2RT, Saidabad Colony,
Hyderabad.
Copy to:The Manager,
Sri Visakha Grameena Bank,
Korasavada Branch, Srikakulam District.
Copy to: PS to M(TW)/ PS to Prl.Secy.(TW).

//Forwarded::By Order//

SECTION OFFICER