

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

W.P.No. 23045 of 2021

Between:

Sadaveni Vinay Kumar,
S/o. Sadaveni Srinivas, aged 34 years,
Occ: Advocate, R/o. Kapuwada,
Karimnagar.

.. Petitioner

AND

1. The State of Telangana,
rep. by its Principal Secretary,
Backward Classes Welfare (B) Department,
Secretariat, Hyderabad.
2. The District Collector,
Karimnagar, Karimnagar District.
3. The Tahsildar,
Karimnagar Mandal,
Karimnagar District.
4. Kola Malathi, W/o. K. Sampath Reddy,
Aged about 45 years, Occ: Ward Member,
6th Ward of Karimnagar, R/o. H.No. 5-5-100,
Kapuwada, Karimnagar.
5. Sri Gangula Kamalakar,
Hon'ble Minister for Backward Classes Welfare,
Food & Civil Supplies & Consumer Affairs,
Government of Telangana,
Secretariat, Hyderabad.

.. Respondents

AFFIDAVIT

I, Sadaveni Vinay Kumar, S/o. Sadaveni Srinivas, aged 34
Years, Occ: Advocate, R/o. Kapuwada, Karimnagar, having
temporarily come down to Hyderabad, do hereby solemnly and
sincerely state as follows:

2. I am the petitioner herein and as such I am well acquainted with the facts of the case.

3. I seek to impugn in this writ petition the action of the first respondent in not disposing of the Appeal dated 19-03-2021 with File Memo No. 932/B/A2/2021, filed under Section 7 of the Telangana State (SC/ST & BC) Regulation of Issue of Community Certificate Act, 1993 (Telangana Adaptation Orders, 2014), hereinafter referred to as Act 16/1993, and keeping the said Appeal pending only to favour 4th respondent at the behest and influence of 5th respondent, as being arbitrary, illegal, unreasonable, malafide, biased, unconstitutional, apart from contrary to the provisions of Act 16/1993.

4. I submit that the facts of the present case are that the non-official respondent who belongs to forward caste by playing fraud on the competent authority the Tahsildar, Karimnagar Mandal, Karimnagar District has obtained a false community certificate as if she belongs to Munnuru Kapu BC-D by virtue of her marriage with Sri Kola Sampath Reddy who belongs to Munnuru Kapu community. The non-official respondent was born in Reddy community which is an OC community and her father's name Yasa Mohan Reddy. That she has obtained a false caste certificate by misrepresenting before the Tahsildar, Karimnagar Mandal, by giving a false self attested notarized affidavit stating that she belongs to Backward Class Group-D Munnuru Kapu caste. The Tahsildar, Karimnagar Mandal without verifying the genuineness or otherwise of the claim of the non-official

respondent herein, issued the community, nativity and date of birth certificate vide Mee Seva Application No. CND021917249843, dated 07-07-2019.

5. I submit that based on the said false certificate she has contested the elections to the office of the Member, 6th Ward of Karimnagar Municipal Corporation, Karimnagar Town and elected in the 6th Ward, which is reserved for Backward Class community. My mother also contested and lost to the un-official respondent. Therefore, I lodged a complaint with the District Collector on 29-05-2020 after obtaining the supportive material in support of my complaint and to show that she belongs to OC community and requested the District Collector to cancel the caste certificate dated 07-07-2019 fraudulently obtained by the non-official respondent from the Tahsildar, Karimnagar Mandal. The said complaint was made under Section 5 of the Act 16 of 1993.

6. I submit that the 5th respondent herein is a Minister in the Ruling Party Government and is also the local MLA i.e., Karimnagar Assembly Constituency. It is further respectfully submitted that being the MLA of the Karimnagar Assembly Constituency, in the elections to the Karimnagar Municipal Corporation, the Telangana Rashtra Samithi Party (TRS party) appointed the 5th respondent as Person Authorized on behalf of TRS party for issuance of 'B' Form on behalf of the TRS political party to the candidates contesting as Ward Members of Karimnagar Municipal

Corporation. In pursuance to the said authorization given by the TRS Party, the 5th respondent has issued the 'B' form in favour of the 4th respondent herein to the Returning Officer of 6th Ward Karimnagar Municipal Corporation vide 'Form -B' No. 06/KRMR/2020, dated 16-01-2020. Therefore on behalf of the TRS political party, the 5th respondent was the Authorised Person and he issued the Form B in favour of the 4th respondent to contest the elections to the 6th Ward Member of Karimnagar Municipal Corporation as the official candidate of TRS party. In the elections, the 5th respondent has canvassed and campaigned in support of the 4th respondent and with the support of the 5th respondent the 4th respondent was elected as Corporator of 6th Ward.

7. I submit that when the District Collector has not acted upon my complaint dated 29-05-2020 against the 4th respondent, I have approached this Hon'ble High Court in W.P.No. 12807/2020 and the Hon'ble High Court by its order dated 21-08-2020, directed the District Collector to complete the enquiry, take necessary decision and refer the matter to the Scrutiny Committee, as expeditiously as possible preferably within a period of 4 weeks from the date of the receipt of the order. The District Collector after following the due procedure as stipulated under Act 16 of 1993, passed the orders in Proceedings No. C4/1129/2020, dated 17-03-2021 holding that the 4th respondent do not belong to Backward Class community and cancelled the caste certificate of 4th respondent issued by the

Tahsildar, Karimnagar. The Government has issued the consequential Notification and which was also published in Karimnagar District Gazette vide No. 01, dated 27-03-2021.

8. I submit that aggrieved by the same, the 4th respondent has preferred an Appeal under Section 7 of the Act 16 of 1993 before the Government of Telangana through first respondent and it was placed before the 5th respondent who is the concerned Minister of the Department. The 5th respondent in all fairness ought not to have entertained the appeal by himself, since the 4th respondent belongs to 5th respondent constituency and he has issued the Form-B in favour of the 4th respondent and also he has supported and campaigned for 4th respondent who has contested as the official candidate of TRS party in the elections to the 6th Ward of Karimnagar Municipal Corporation. But the 5th respondent exercised his power only to favour the 4th respondent and passed an order on 19-03-2021 on the Appeal petition itself, as under;

“Principal Secretary, BC Welfare.

Stay granted under Section 7(4) of TS (SC/ST/BC) Regulation of Issue of Community Certificates Act, 1993.

Please issue.

Sd/-xxx,
M. Gangula Kamalakar, 19-03-2021.”

Based on the above said marginal Endorsement orders of the Hon'ble Minister/5th respondent herein, the first respondent has issued the Memo dated 01-04-2021 communicated the stay orders i.e., stay

of the operation of the proceedings No. C4/1129/2020, dated 17-03-2021 of the District Collector, Karimnagar.

9. I submit that Section 7 of Act 16 of 1993 deals with the Appeal and sub-section 2 of it states that any person aggrieved by an order passed under Section 5 by the District Collector, may within 30 days from the date of publication of such order in the Gazette, appeal to the Government..... In the instant case the orders of the District Collector under Section 5 of the Act are dated 17-03-2021 and it was published in the District Gazette on 27-03-2021 and therefore an appeal under Section 7(2) is maintainable only after publication of the orders of the Collector in the District Gazette. The 4th and 5th respondents who belongs to Ruling Party and who are very close politically and taking advantage of the same, giving a go bye to the statutory procedure prescribed under the provisions of Act 16 of 1993 and even before publication of orders in the Gazette, the 4th respondent has preferred an appeal and presented the same before the Hon'ble Minister/the 5th respondent on 19-03-2021 and on the very same day the Hon'ble Minister entertained the Appeal and granted the stay and the same is communicated by the first respondent without verifying about maintainability of appeal and granting of stay. Therefore, the appeal itself is not maintainable before Gazette Notification of the orders of the District Collector. Hence there are no bonafides in the appeal and granting of stay by the Hon'ble Minister is malafide and biased. Section 7(2) mandates that an appeal is to be

filed before the Government. Section 2(e) defines Government, which means the State Government of Telangana. Normally whenever statutory appeals are filed before the Government, the concerned Principal Secretaries takes up the hearing of the matters. There are no orders issued by the Government authorizing the concerned Minister to entertain the appeal for the purpose of granting of stay or hearing. Even assuming that there are such orders of authorization, the 5th respondent ought not to have entertained the appeal by himself for various reasons stated supra and therefore, there is no fair play or transparency in the matter of dealing with present appeal.

10. I submit that in the said appeal, I am shown as 4th respondent and after receipt of the copy of the appeal and stay petition, I have filed my counter on 25-06-2021 requesting to vacate the interim orders and dismiss the appeal. The first respondent is not taking up the matter for hearing and he is also not taking up the vacate application, because of influence of 5th respondent. It is pertinent to state here that under the provisions of Act 16 of 1993, the District Level Scrutiny Committee have submitted a detailed report to the District Collector and after considering the same and after further giving due notice and opportunity to the 4th respondent herein, the District Collector has passed an elaborate order categorically holding that the 4th respondent has not established her claim of Caste Status and has not proved that she belongs to B.C.-D Munnurukapu caste and therefore, cancelled the caste certificate issued by the Tahsildar,

Karimnagar in favour of the 4th respondent. In the grounds of appeal, the 4th respondent, has not made out any further case in support of her claim, except reiterating what has been stated before District Collector. No documentary proof is filed in consonance with the provisions of Act 16 of 1993 to substantiate to prove her case that she belongs to B.C-D Munnurukapu caste and placed the Appeal before the Hon'ble Minister. The 5th respondent herein who is the concerned Minister, without verifying the appeal and supportive material mechanically granted the stay of orders of District Collector only to favour the 4th respondent, since the 4th respondent belongs to the party of the 5th respondent and who is close associate party worker of 5th respondent and therefore, till the conclusion of elected term of 4th respondent, the 5th respondent is influencing the 1st respondent not to take up the appeal. Though there is no official communication in this regard, the 4th respondent is openly claiming that the appeal will not be heard till her term is concluded. Therefore there is reasonable apprehension in my mind that the appeal will not be taken for hearing and disposal and as a consequence the person who is not eligible to contest to the reserved vacancy, by misleading and by playing fraud, obtained the false certificate as if she belongs to BC community though she belongs to OC category. Therefore, I am approaching this Hon'ble Court for a direction to the first respondent for early disposal of the Appeal.

11. I submit that the 5th respondent who is a responsible Minister in the very popular Government headed by Hon'ble Chief

Minister cannot act to favour a candidate at the cost of Backward Class community at large. The 5th respondent being a Minister for Backward Class community is acting detrimental to the interest of the said community and therefore, his action of granting stay of District Collector's orders in the Appeal filed by the 4th respondent and not allowing the appeal to be disposed of is highly arbitrary, illegal, malafide and biased and the 1st respondent who is subordinate to the Government is not taking up the appeal for hearing at the behest of the 5th respondent and therefore this writ petition. If the appeal is not disposed of at an early date, it would result in irreparable loss and injury to the Backward Class community people of the Constituency and a person with false caste certificate has contested and usurped the position reserved for Backward Class community and hence this writ petition.

12. I submit that I have no other alternative and efficacious remedy except to approach this Hon'ble High Court under Article 226 of the Constitution of India for necessary relief. I further submit that I have not filed any writ, suit, or any other proceedings in any Court praying for the same relief.

It is, therefore, prayed that this Hon'ble High Court may be pleased to issue a writ, order or a direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the first respondent in not disposing of the appeal dated 19-03-2021 with Memo.No. 932/B/A2/2021, as being arbitrary, illegal, unreasonable,

unconstitutional and contrary to the provisions of the Telangana State (SC/ST & BC) Regulation of Issue of Community Certificate Act, 1993 (Telangana Adaptation Orders, 2014) and issue a consequential direction directing the first respondent to dispose of the said Appeal as expeditiously as possible in accordance with law and pass such further order or other orders as this Hon'ble Court deems fit and proper.

It is prayed that this Hon'ble High Court may be pleased to direct the first respondent to dispose of the Appeal dated 19-03-2021 with Memo.No. 932/B/A2/2021, at an early date after giving due notice and opportunity to all the parties in the said Appeal, pending disposal of the writ petition and pass such further order or other orders as this Hon'ble High Court deems fit and proper.

Solemnly affirmed and signed
before me on this the day of
September, 2021.

Deponent

Advocate/Hyderabad

VERIFICATION

I, Sadaveni Vinay Kumar, S/o. Sadaveni Srinivas, aged 33 Years, Occ: Advocate, R/o. Kapuwada, Karimnagar, do hereby declare that the facts stated from paras above are true to the best of my knowledge, belief, information and as per the records. Hence, verified on this the day of September, 2021.

ADVOCATE

DEPONENT