

PRABHUDEV MALLIKARJUNAIAH
v.
RAMACHANDRA VEERAPPA AND ANR.

A

APRIL 23, 1996

[K. RAMASWAMY, B.L. HANSARIA AND S.B. MAJMUDAR, JJ.]

B

Constitution of India, 1950/Representation of the People Act, 1951—Art, 341/S. 116-B—Election in constituencies reserved for SC/ST—Presidential Notification—Courts cannot give any declaration that the status with synonymous names of castes claimed by the party is confirmable to the names specified in the Notification—Assistant Municipal Commissioner issuing Caste Certificate—He has no jurisdiction to issue the certificate and hence cannot be validly acted upon.

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4247 of 1995.

D

From the Judgment and Order dated 27.10.94 of the Karnataka High Court in E.P. No. 3 of 1991.

N.D.B. Raju and G. Prabhakar for the Appellants.

E

P. Mahale and S.N. Bhat (NP) for the Respondents.

The following Order of the Court was delivered :

This appeal under Section 116-B of the Representation of the People Act, 1951 (for short, the 'Act') arises from the judgment of the High Court of Karnataka made on October 27, 1994 in Election Petition No. 3/1991. The appellant had filed his nomination as a Scheduled Caste candidate to the Bidar-I (SC) Parliamentary Constituency for the 9th Lok Sabha on April 26, 1991. It was rejected by the Returning Officer by his proceedings dated April 27, 1991 finding that he is a Verrashive Jangamma and that, therefore, he is not a Beda Jangamma, which is item 19 of the Presidential Notification in relation to the State of Karnataka. He filed the election petition in the High Court, which was dismissed by the aforesaid judgment. Thus this appeal.

F

G

Shri N.D.B. Raju, learned counsel for the appellant, contended that

H

- A the appellant was Beda Jangamma. His father was the President of Beda Jangamma Association. He had the benefit of contesting the elections as a member of Beda Jangamma. The finding of the Court that he is not Beda Jangamma is not correct. He contends that among the Lingayaths, there are various sub-castes. Thought, as a fact, it was found that the appellant's sub-caste is Veerashiva, in fact, if it is only a Beda Jangamma. His father used to adopt begging which the Beda Jangamma caste would do. Consequently, a appellant cannot be denied of the status as a Beda Jangamma. He also sought to place strong reliance on the judgment of the civil Court, Ex.P-14, in Misc. No 75 of 1987, made on February 26, 1988 in which the appellant wherein was held to be Beda Jangamma and that, therefore, the findings of the High Court are incorrect. Having considered the evidence, we find that there is no force in the contention.

- D It is seen that under Article 34(1) of the Constitution, the Presidential Notification is conclusive subject to the amendment under clause (2) of Article 341. In 1976, Scheduled Castes, Scheduled Tribes (Amendment) Act had been made. Admittedly, under item No. 19, in relation to the State of Karnataka, Beda Jangamma or Budaga Jangamma are declared as Scheduled Castes. As a fact, the finding recorded by the High Court is that the appellant belongs to Veerashiva Lingayath Community and he is a Jangamma. The question, therefore, is : whether Veerashiva Lingayath would be considered to be a Scheduled Caste (Beda Jangamma) within the notification issued by the President ? It is settled law that the courts cannot give any declaration that the status with synonymous names of castes claimed by the party is conformable to the names specified in the Presidential Notification issued under Article 341 of the Constitution.

- F The finding recorded by the High Court after exhaustive consideration of evidence including the judgment of the Civil Court on which strong reliance was placed, is that the appellant is a Veerashiva Lingayath Jangamma and that, therefore, he cannot be considered to be a Beda Jangamma or Budaga Jangamma. It is true that the appellant has placed reliance on the Census Report prepared by the Census Department of the State of Karnataka and also the Notification issued by the Legislative Department. That evidence also was considered and for valid and diverse reasons, with which we agree, the same was rightly rejected.

- H The Civil Court went into the status of the appellant in the Election

Petition relating to Zilla Parishad election in the judgment Ex. P-14 on the basis of the evidence placed before it in that case. The Civil Court has pointed out that the contenting candidate had not seriously disputed the status of the appellant as Beda Jangamma. The only contention raised was that there were no Beda Jangamma in Gulbarga District. That question was gone into and it was found that there were Beda Jangammias in Gulbarga District. On that basis, the decision was given by the Civil Court. The foundation on which the appellant claimed the status was the certificate issued by the Assistant Municipal Commissioner that he is Beda Jangamma. The High Court found that the Assistant Commissioner has no jurisdiction to issue the certificate. Once the status based upon the certificate issued by the Assistant Commissioner was found to have lacked jurisdiction, the basis has been knocked off to bottom. The judgment of the civil Court is not a judgment *in rem* nor is the High Court bound by the said judgment.

Thus considered, we hold that there is no warrant for finding that the appellant belongs to Scheduled Castes entitling him to contest the election as Scheduled Caste candidate.

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed.