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S. NAGARAJAN

v.

THE DISTRICT COLLECTOR, SALEM AND ORS.

JANUARY 13, 1997

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[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Constitution of India, 1950 : Articles 14, 15, 16, 226, 341 and 342 :*

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*Scheduled Tribe—Social Status Certificate—False claim—Appellant appeared in Central Civil Services Examination—His claim for status of Schedule Tribe (Konda Reddy) doubted by UPSC—Enquiry—Collector holding a detailed enquiry and holding that the appellant did not belong to Schedule Tribe Community—Appellant unable to give any proof in support of his claim that he belongs to Schedule Tribe Community—Cancellation of Certificate granted—Challenge—High Court found that the father of appellant who was in Government service had not claimed his status to be a member of Scheduled Tribe—Interpolation in school record—High Court affirmed the conclusion of Collector—Appeal—Held the High Court was correct in accepting the conclusion reached by the Collector that the appellant had not established his status as Scheduled Tribe—The documentary evidence was brought on record to prop up the retrograde status of Scheduled Tribe to snatch the constitutional benefits given to the Scheduled Tribes.*

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*Madhuri Patil v. Additional Commissioner Tribal Development, AIR 1995 SC 94, cited.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 236 of 1997.

From the Judgment and Order dated 19.8.96 of the Madras High Court in W.A. No. 166 of 1996.

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C.S. Vaidyanathan, K.V. Vishwanathan and K.V. Venkataraman for the Appellant.

The following Order of the Court was delivered :

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Leave granted. This appeal by special leave arises from the judgment of the Division Bench of the Madras High Court, made on August 19, 1996

in Writ Appeal No. 166 of 1996.

The appellant claimed his status as Scheduled Tribe (Konda Reddy) and had appeared in Central Civil Services Examination held in 1985. His status was doubted by the Union Public Service Commission and an enquiry was directed to be made. During enquiry, the Tehsildar found that the certificate of social status given by the Deputy Tehsildar was not correct and was without jurisdiction and accordingly cancelled the said certificate. The appellant filed a writ petition and the High Court directed fresh enquiry in that behalf after giving notice to the appellant. After giving notice, the Tehsildar cancelled the certificate given to the appellant which was again challenged by way of another writ petition. The High Court again directed that the matter be enquired by the R.D.O. The R.D.O. also found the appellant to be not a Scheduled Tribe. The appellant made third attempt by filing writ petition in the High Court. The High Court directed the Collector to personally enquire into the matter after giving reasonable opportunity to the appellant and to pass a speaking order. Thereafter, the Collector made a detailed enquiry and held that the appellant did not belong to the Scheduled Tribe community. Calling that action in question, the appellant filed writ petition. Learned Single Judge by order dated December 13, 1995 upheld the order of the District Collector with the finding that the appellant was given opportunity to prove his tribal traits and also that the appellant was unable to give any proof in support of his claim that he belongs to Scheduled Tribe community and as such the certificate granted by the Deputy Tehsildar was rightly cancelled as the same was without jurisdiction. It was also found that the persons who had stated earlier in favour of the appellant as to his community and status at the behest of the appellant's father who retired as Commissioner, resiled thereafter. Therefore, their statements that the appellant was a member of the Scheduled Tribes could not be relied upon. Learned Judge has also accepted the reasoning of the Collector that the father of the appellant who was in Government service had not claimed his status to be a member of Scheduled Tribe. Had he been a member of Scheduled Tribe community, it was unlikely that he would have omitted to claim his said status. In the school certificate of the appellant, his caste was originally noted as Hindu Reddiar and subsequently the word "Konda" had been added. Equally, in entry in the school admission register, the caste as originally noted was "Hindu Reddi" and the word 'Konda' was added subsequently, that too in different ink. In other words, he is a member of forward caste and there

A is no signature on the correction of word 'Konda' by the concerned Headmaster. Thus, it appears to have been so made as to be consistent with the interpolation made in the school certificate of the appellant. Having regard to these facts the learned Single Judge has held thus :

B "13. The fact that the petitioner's father subsequently claimed to be a Joint Secretary of the Madurai Unit of the State Konda Reddy Association and the President of that Association claimed to be a grand uncle of the petitioner does not help the petitioner to establish his claim that he is a kondareddi.

C 14. The petitioner was required to establish before the Collector that he belonged to kondareddi community. No attempt was made to establish that the customs and practice followed by the petitioner and his family are those of the tribal group of kondareddi. What was sought to be established by the petitioner was that in certain documents such as school admission register and sale deeds, the caste of the petitioner or his relatives was mentioned as kondareddi. Such description of the petitioner's caste after the petitioner's father had become aware of the benefit available to the kondareddi, even though he himself at no point of time claimed to have belonged to the scheduled tribe, and claimed the benefits available to those belonging to that tribe, cannot from a reliable basis for holding that the petitioner is a kondareddi. His membership of tribe has to be established with reference not merely to the documents wherein he or his relatives are described as kondareddi, but by establishing the customs habits or anthropological data concerning the family from which one could reasonably conclude that the petitioner belongs to the tribe of kondareddi. No such evidence was produced by the petitioner".

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G It would thus be seen that the documentary evidence was brought on record to prop up the retrograde status of Scheduled Tribe to snatch the constitutional benefits given to the Scheduled Tribes.

The Division Bench after considering these facts has held thus :

H "..... About the documentary proof let in by the petitioner, the father's case is the proper proof to know the caste of his son. In the school admission register, the caste of the writ petitioner's

father Thiru N. Siddareddi was originally noted as 'Hindu Reddi' only. Subsequently, the word 'konda' has been written in it, in brackets and that too in different ink. The corrections have not been attested by the Headmaster. A certificate issued on 2.7.1953 by the village Munsif of Kannamoochi has been pasted in the admission register which does not bear the initial or signature of the Headmaster for having accepted it. In the Transfer Certificate dated 16.6.1955 also, his caste has been originally noted as Hindu Reddiar and subsequently the word 'konda' has been added. Even accepting that the correction in the Admission Register had actually been made in the year 1953 itself on the strength of the Village Munsif Certificate dated 2.7.1953, the caste in the T.C. would have been noted as Hindu Konda Reddi in the first instance itself. Even in the Service Register of Siddareddy, it has been noted as Hindu/Reddi (konda). Hence it is patently clear that the caste noted in the admission register was not corrected in the year 1953 but was corrected long after the entry of Thiru Siddareddy into Government Service. The other documents filed by the petitioner do not support the claim that the writ petitioner is a kondareddi.

2. It is an established position of law that though jurisdiction under Art. 226 of the Constitution is wide, but nevertheless it cannot be exercised as an appellate jurisdiction and it is not open to this court to appreciate the evidence and come to its own conclusion as long as it is shown that the fact finding authority has followed the provision of law correctly and appreciated the evidence in a reasonable manner. In other words, the approach of the fact finding authority not being perverse and unreasonable and not being vitiated by non-consideration of the evidence on record, the fact that this Court can come to a different conclusion on the very same evidence would not be a ground for interference. Added to that, while considering a similar issue, the Supreme Court in *Madhuri Patil v. Additional Commissioner Tribal Development*, AIR (1995) S.C. 94 has held as follows :

"The question then is whether the approach adopted by the High Court in not elaborately considering the case is vitiated by an error of law. High Court is not a Court of appeal to appreciate the evidence. The Committee which is empowered to evaluate the

A evidence placed before it when records a finding of fact, it ought  
to prevail unless found vitiated by judicial review of any High Court  
subject to limitations of interference with findings of fact. The  
Committee when considers all the material facts and record a  
finding, though another view, as a Court of appeal may be possible,  
B it is not a ground to reverse the findings. The Court has to see  
whether the Committee considered all the relevant material placed  
before it or has not applied its mind to relevant facts which have  
led the committee ultimately recorded the finding. Each case must  
be considered in the back drop of its own facts."

C 3. Further, in a case like this, the determining factor is the  
community to which the father of the Writ Petitioner belonged. In  
the instant case, the father of the Writ Petitioner never claimed  
that he was a kondareddi, even though he was a Government  
servant. Kondareddy is recognised as a scheduled tribe. Any per-  
D son entering a government service, if he is entitled to such a benefit,  
would never fail to avail such a benefit. If the father of the Writ  
petitioner was a Kondareddi, he would not have failed to take  
advantage of the fact that he belonged to kondareddy, as such he  
was a scheduled tribe and entitled to all the benefits. He had not  
done so. The learned single judge, referring to the community of  
E the father of the Writ petitioner, in paragraph 12 has observed as  
follows :

F "It is apparent that petitioner's father was fully aware when he  
entered government service that he did not belong to any  
Scheduled Tribe. He has attempted to take advantage of the name  
'Reddy' being part of the name of Scheduled Tribe 'konda Reddy'  
and had 'konda' added to his school records and declare that his  
son's community is 'konda reddy' so that the same may be entered  
in the petitioner's school records. Such entries cannot confer the  
G status of Scheduled Tribes. The claim made on the basis of such  
records is, in the words of apex Court, in the case of Madhuri Patil  
is one of 'Pseudo status'".

H This Court in several cases has negated the claim even when the  
claimants' father had enjoyed the status of Scheduled Tribe on the basis of  
the finding made in the enquiry that he did not belong to Scheduled Tribes.

This is a converse case.

Shri Vaidyanathan, learned senior counsel appearing for the appellant, contends that the view expressed by the courts below is not correct and in view of the fact that the appellant's grand father had entered into an unregistered agreement wherein they claimed the status of Konda Reddy, a Scheduled Tribe, prior to 1949, it is unlikely that the appellant would fabricate the records and claim the status of being a member of the Scheduled Tribe community. The High Court is not a court of appeal to appreciate the evidence. The Collector after detailed consideration of the evidence placed by the petitioner, has concluded that the appellant is not a member of Schedule Tribe (Konda Reddy). His father, N. Siddwareddi had never claimed this status. Though in the ordinary course he would have claimed to be belonging to the Scheduled Tribe community to avail the benefit of reservation available under State service. The learned Single Judge was right in concluding that the appellant's father having been in Government service would not have omitted to claim his status as belonging to Scheduled Tribe had he really been a member of Scheduled Tribe community (Konda Reddy). On the other hand, his father was Reddy which is a forward caste and that therefore, the subsequent interpolation that he was Konda Reddy (interpolation) is not genuine and an incorrect document was thus brought into existence to claim the status as Scheduled Tribe. It is obvious that the Constitution intended to give benefit of social and economic advancement and empowerment and social equality of status and dignity of person, by providing reservation in services of the State and in education by operation of Articles 15, 16 and 14 of the Constitution and that therefore, only the persons who are members of Scheduled Tribes and Scheduled Castes alone are entitled to the benefit. By interpolation of the documents, none can get a particular social status unless it is recognised as per the Presidential Notification/Order under Article 341 or 342, to avail of the benefit of reservation made in that behalf. The High Court was, therefore, correct in accepting the conclusion reached by the Collector that the appellant had not established his status as Scheduled Tribe.

The appeal is accordingly dismissed. No costs.

T.N.A.

Appeal dismissed.