

ANDHRA PRADESH (SCHEDULED CASTES, SCHEDULED TRIBES AND BACKWARD CLASSES) ISSUE OF COMMUNITY, NATIVITY AND DATE OF BIRTH CERTIFICATES RULES, 1997

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In exercise of the powers conferred by sub-section (1) of Section 20 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), the Governor of Andhra Pradesh hereby appoints 16-5-1997 as the date on which the provisions of the Andhra Pradesh Scheduled Castes, Scheduled Tribes and Backward Classes Issue of Community, Nativity and Date of Certificates Rules, 1997, shall come into force in all the areas of the State of Andhra Pradesh.

1. Short title and commencement of rules :-

These rules may called the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.

2. Definitions :-

In these rules, unless the context otherwise requires,--

(a) "Form" means a form appended to these rules,

(b) "Act" means the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993),

(c) "Competent Authority" means the authority specified under column (2) of Annexure-I appended to these rules, for issue of certificates to the communities specified in column (1) within the territorial jurisdiction as specified in column (3) thereof,

(d) "Traditional Habitat" of a tribe means the area in which a tribe or part or group of that tribe is found inhabiting traditionally, on the date of notification of that tribe or part or group of that tribe as a Scheduled Tribe for the first time in the State of Andhra Pradesh.

3. Community, Nativity and Date of Birth Certificates :-

The form for issue of Community, Nativity and Date of Birth Certificates is as specified in Form III appended to these rules.

4. Procedure for application :-

(a) Every applicant/parent/guardian who belongs to a Scheduled Caste, Scheduled Tribe, Backward Class, desirous of declaring his social status as that of a Scheduled Caste, Scheduled Tribe or a Backward Class, shall submit an application in the prescribed Form I/II to Competent Authority, well in advance i.e., six months, as far as possible, particularly when seeking admission to the educational institutions or appointment to a post.

(b) If the applicant is a minor, the parent/guardian shall submit the application form as mentioned in clause (a) above.

5. Procedure for verification :-

(a) On receipt of the application, the Competent Authority or any officer authorised by him in this regard shall

(b) This scrutiny and review committee shall meet once in three months or as often, depending on the necessity.

(c) Presence of three members will form the required quorum for the meeting of the Committee.

(d) This Committee shall review and monitor the functioning of the scrutiny Committees at the District level constituted under Rule 8. It shall render necessary advice to the Government on various policy decisions to be taken for streamlining the procedure or on any other issues related to the issuing of Community Certificates as per Act.

(e) The Committee may also render necessary guidance and advice to the Government on cases referred to it, where divergent and conflicting enquiry reports are received by the Government, in respect of the community claims.

8. Scrutiny Committee (District level) :-

(a) In every district, a scrutiny committee shall be constituted with the following officers :

(1) Joint Collector Chairman (2) District Revenue Officer Member

(b) The scrutiny committee shall meet atleast once in a month or as often, depending on the cases referred to it.

(c) Presence of three members will form the required quorum for the meetings of the Committee.

(d)

(1) The scrutiny committee, on receipt of the cases referred to it by the Competent Authority under Rule 5(i), shall conduct enquiry regarding the doubtful claims, by giving notice in Form V to the applicant, within the period specified in the notice. This period should not be less than 15 (fifteen) days from the date of service of the notice on the applicant and in no case, on request, more than 30 (thirty) days should be allowed. This notice shall be served on the applicant through the Competent Authority who referred the case to the Committee.

(2) The notice referred to in Form V shall be served on the parent/guardian in case the applicant is a minor.

(3) Where the person on whom a notice in Form V is served by the Scrutiny Committee fails to respond on the date mentioned in the notice, the Scrutiny Committee may finalise its recommendations based on the material/documents/evidence made available to the Committee by the Competent Authority.

(4) The Scrutiny Committee shall cause enquiry, following the due process of law to verify the genuineness or otherwise of the information furnished or recorded from such persons as called in the enquiry as per Form V. It shall also cause to collect documentary evidence or any other related evidence about the correctness or otherwise of the information furnished or objections raised by any person during the enquiry.

(5) The Scrutiny Committee shall examine the school records, birth registration certificates, if any, furnished by the persons during the enquiry. It may also examine any other person who may have knowledge of the community of the applicant. With reference to the claims of Scheduled Tribes, it may examine the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies/method of burial of dead bodies etc., of that particular tribe, to finalise its recommendations to the Competent Authority.

(6) The Scrutiny Committee should give reasonable opportunity to the applicant to produce evidence in support of their claim. A public notice by the beat of drum or any other convenient mode, may be published in the village or locality of the applicant and if any person or association opposes such a claim, opportunity to produce evidence in person before the Committee may be given to him or her. After giving such an opportunity to that person, the Committee may make such enquiry as it deems expedient and finalise its recommendations, with brief reasons in support thereof, to the Competent Authority.

(7) The Scrutiny Committee shall examine the report of enquiry conducted by the Revenue Department furnished to it by the Competent Authority. It may also obtain expert opinion from the Commissionerate of Social Welfare/Tribal Welfare through the officers of the Research organisations of these Commissionerates who are the members of the Scrutiny Committee, if deemed necessary. These enquiry reports may be compared and then recommendations of the Scrutiny Committee may be finalised as to whether the community claim of that applicant is found to be false or genuine.

(e) The Chairman of the Scrutiny Committee i.e., Joint Collector of the District, shall send the recommendations of the Committee to the Competent Authority stating clearly whether the community claim of the person in question or his or her children, is genuine or false with reasons thereof, within 45 days from the date of the receipt of the case referred to it by the Competent Authority.

9. Fraudulent claims :-

(1) Where the District Collector receives a written complaint from any person or has otherwise reason to believe that a person not belonging to Scheduled Caste or Scheduled Tribe or Backward Class has obtained a false Community, Nativity and Date of Birth Certificate to the effect that either himself/herself or his/her children belong to such a Scheduled Caste/Scheduled Tribe/Backward Class, the District Collector shall refer the case to the Chairman, Scrutiny Committee i.e., Joint Collector of the District (formed under Rule 8, to enquiry into such cases and send its findings to the District Collector.

(2) The Scrutiny Committee on receipt of such cases referred to it by the District Collector, shall follow the procedure as listed in Rule 8(d), (1) to (7) except that it shall serve the notice in Form VI on the person involved in the case.

(3) The Scrutiny Committee shall in such cases enquiry by the Protection of Civil Rights/Vigilance Cell also i.e., through the officer representing the Protection of Civil Rights/Vigilance Cell as the member of the committee. The protection of Civil Rights/Vigilance Cell should investigate the social status claimed by the person by the sending the Inspector of Police to the local place of residence of that person and where he/she usually resides or in case of migration, to the town or city from which he/she originally hailed from. The Inspector should personally verify and collect all the facts, about the community claim of the person or the guardian or the parent, as the case may be.

(4) Where the person on whom a notice served in Form VI fails to respond to the notice within the period specified in the notice, the Scrutiny Committee may finalise its findings based on the material made available by the District Collector i.e., enquiry report of the Revenue Department, enquiry report of the Protection of Civil Rights/Vigilance Cell and the reports of the expert/Officer of the Research Organisation of the Commissionerate of Social Welfare/Tribal Welfare.

(5) The Scrutiny Committee shall compare the enquiry reports of the Revenue Department furnished by the District Collector, the reports of the Protection of Civil Rights/Vigilance Cell and the reports of the Expert or officer of the Research Organisation of the Commissionerate of Social Welfare/Tribal Welfare and then finalise its findings whether the Community, Nativity and Date of Birth Certificate given to the person or his/her children is genuine or otherwise.

(6) The Scrutiny Committee shall furnish its findings to the District Collector within 60 days from the date of the receipt of the reference from the District Collector.

(7) The District Collector shall then decide whether the certificate holder is genuine or fraudulent and in case of his having obtained a Community, Nativity and Date of Birth Certificate fraudulently, the District Collector shall pass an order cancelling the certificate issued, within one month from the date of receipt of the findings of the Scrutiny Committee and shall issue notification to that effect, to be published in the District Gazette. The District Collector shall also take necessary steps to initiate action against the Competent Authority who issued the Community, Nativity and Date of Birth Certificate to the wrong person; besides taking other specified in Rule 15. He shall communicate the cancellation of certificate to the specified in Rule 15. He shall communicate the cancellation of the certificate to the educational institution/employer/appointing authority as the case may be forthwith.

(8) In respect of the Bariki SC Community, such written, complaints if received by the Collector shall be referred by him to Government, for necessary enquiry and final action to cancel the certificate, since the District Collector is the Competent Authority to issue the Community, Nativity and Date of Birth Certificate for this community.

(9) The Collector or Government, either suo motu, or on a written complaint by any person, or on request by an employer/educational institution/appointing authority, shall enquiry into the correctness of any Community, Nativity and Date of Birth Certificate already issued and if it is found that the certificate is obtained fraudulently, then the District Collector or the Government, as the case may be, shall cancel the certificate as per Section 5 of the Act.

10. Appeals :-

An appeal shall lie to the District Collector within thirty (30) days from the date of receipt of rejection orders on the application for Community, Nativity and Date of Birth Certificate passed by the Competent Authority. The appellate authority shall examine the grounds on which the appeal is filed and also receive or call for further evidence/documents, if considered necessary, and pass such orders as the appellate authority considers fit and proper in the matter. In case of Bariki Caste, the appeal shall lie to the Government against the orders of the District Collector.

11. Review :-

(1) The Government may, on an application filed by any person aggrieved by an order passed by the District Collector under sub-section (1) of Section 5 of the Act, within 30 (thirty) days of receipt of that order, review such orders, if it was passed by the District Collector under any mistake, whether of fact or law or in ignorance of any material fact.

(2) Pending disposal of an appeal under Rule 10 or a review under Rule 11(1) above, it shall be competent for the Government to stay the operation of the order against which an appeal or review, as the case may be, is filed.

12. Revision :-

(1) The Government either suo motu, or an application filed by any person aggrieved by the orders issued by the authority authorised under these rules, shall entertain such application as a revision petition, within sixty (60) days of the communication of the order passed under these rules and pass appropriate orders in accordance with the provisions contained in Section 8 of the Act, 16 of 1993.

13. Bar of jurisdiction of civil Courts :-

No civil Court shall have jurisdiction in respect of any order passed by any officer or authority under the Act and in stay or injunction shall be granted by a Court, in respect of any action taken or to be taken by such officer or authority under the Act, in pursuance of any power conferred by or under the Act, as provided in Section 17 of the

Act.

14. Exercising or powers of civil Courts :-

The Competent Authority/the Appellate Authority/the Scrutiny and Review Committee at the State level/Scrutiny Committees at the District level/Government shall exercise the powers of civil Courts under the Code of Civil Procedure, 1908 in summoning the witnesses as defined in Section 9 of the Act in addition to,--

- (a) Receiving evidence on affidavit;
- (b) Summoning and examining any person or documents;
- (c) Making local enquiry and inspections.

15. Action on false certificates: (Penalties) :-

(a) Any person, who obtains a false Community, Nativity and Date of Birth Certificate as belonging to a community to which he does not in fact belong, shall be dealt with as per the provisions under Sections 10, 11, 12, of the Act.

(b) Action under sub-rule (a) above against a person shall be referred to the Court of competent jurisdiction and will be initiated by the District Collector under whose jurisdiction the person obtained the false Community, Nativity and Date of Birth Certificate.

(c) The District Collector shall initiate action under Section 13 of the Act against an officer who issued the false Community, Nativity and Date of Birth Certificate to any person contrary to the provisions of the Act.

16. Validity of Community, Nativity and Date of Birth Certificate :-

The Community, Nativity and Date of Certificate, issued by the Competent Authority in accordance with these provisions, shall be a permanent one.

17. Procedure for issuing of duplicate Community, Nativity and Date of Birth Certificate :-

When the holder of the Community Certificate loses the certificate, he/she shall immediately report this to the Competent Authority. He/she shall submit an application to the Competent Authority, furnishing the particulars of the original Community Certificate held by him/her. On receipt of such application, the Competent Authority shall verify his records and issue duplicate Community, Nativity and Date of Birth Certificates within fifteen (15) days of the receipt of the application by him/her. An affidavit on Rs.10/- stamp paper stating the circumstances in which he/she lost the original certificate must be filed along with the application for the issue of the duplicate certificate.

18. Complaints :-

Whenever complaints are received regarding the community claim of any employee/prospective employee/student claiming to belong to a Scheduled Caste/Scheduled Tribe or Backward Class, the appointing authority/employer/educational institution must refer the case only to the District Collector of the District from where the Competent Authority has issued the certificate. The District Collector shall in turn get it verified by the Scrutiny Committee constituted at the District level as per Rule 8. The District Collector would inform the final action to the appointing authority/employer/educational institution within a period of 90 (ninety) days, from the date of the receipt of the complaint by him/her from the appointing authority/employer/educational institution.

19. Provisional admission/appointment :-

If the last date for admission to an educational institution/appointment to an office/post is getting expired, and there is delay in finalising the enquiry and issuing of Community, Nativity and Date of Birth Certificate by the Competent Authority. Then the Competent Authority may inform the Principal of that educational institution/appointing authority/employer or such other authority, competent in this behalf, to admit/appoint the candidate, on the basis of the declaration given by the candidate/parent/guardian before the Competent Authority, while applying in Form I/II as per Rule 5, for the issuance of the Community, Nativity and Date of Birth Certificate. Such admission or appointment shall only be provisional and valid for three months from the date of the communication by the Competent Authority to the Principal/employer/appointing authority as the case may be and shall cease to be valid after the issuance of the Community, Nativity and Date of Birth Certificate by the Competent Authority, based on the conclusion of the enquiry.

20. Repeal :-

All the executive instructions, Government orders, Government Memoranda issued and are in force before the commencement of these rules, shall stand annulled, without prejudice to the validity of anything previously done under those Government Orders/Memoranda or executive instructions.

21. Savings :-

The Community Certificate issued by the Competent Authority prior to the commencement of these rules should be treated as a valid certificate.