
(2000) 12 AP CK 0010

Andhra Pradesh High Court

Case No: Writ Petition No. 5214 of 1990

Varre Venkata Ramana
Jaganmohan Rao and
Others

APPELLANT

Vs

Joint Collector and
District Magistrate and
Others

RESPONDENT

Date of Decision: Dec. 21, 2000

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2001) 3 ALT 508

Hon'ble Judges: Goda Raghuram, J

Bench: Single Bench

Advocate: Duba V.N. Babu, for the Appellant; Govt. Pleader for Social Welfare, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Goda Raghuram, J.

The petitioners assail the order of the 1st respondent dt. 24-1-1990 whereby the respective Social Status Certificates granted to them by the Tahsildar, Yellavaram, declaring them as belonging to Konda Kapu community, have been cancelled.

2. All the petitioners are brothers being sons of one Varre Ayyappa Naidu. It would appear that the earliest known ancestor in the male line of the petitioners one Varre Ayyappa Naidu had two sons - Veeraiah and Venkata Narasaiah. Veeraiah had a son by name Krishnamurthy, who in turn had four sons-Apparao, Satyanarayana, Paparao and Ramarao. The other son of Ayyappa Naidu, Venkata Narasaiah had a son by name

Ayyappa Naidu, the father of the petitioners herein. This Ayyappa Naidu had 8 sons, the petitioners herein who are six in number and two others Satyanarayana and Suryanarayana.

3. The petitioners assert that they are all native of Pidatamamidi village since their ancestors from 1830 and that all their education records as well as birth extracts describe them as Konda Kapu. The petitioners' father Ayyappa Naidu served as the Village Munsif of Pidatamamidi village, a village in the Agency tract of Yellavaram in East Godavari District. After Ayyappa Naidu served as Village Munsif for 30 years, the 1st petitioner was appointed as such in 1976 and continued to be so till the institution was abolished in 1983. The 1st petitioner has also been elected as Sarpanch of Pidatamamidi Gram Panchayat for two times during 1966 to 1976 in a situation where the post of Sarpanch was reserved for members belonging to Scheduled Tribe community, the village being situate in a scheduled area.

4. In the above scenario the 2nd respondent has called the 1st petitioner somewhere in October 1987 and asked him to furnish all the details regarding the family history so as to enquire into the particulars of the community of the petitioner. The petitioner thereupon submitted various documents including birth extracts of various members of the family, Social Status Certificates issued in favour of the petitioners as well as their father and uncles as well as the birth extracts and school records belonging to the children of the various petitioners. On behalf of the petitioners the pension papers pertaining to their grandfather Varre Venkata Narasaiah have also been submitted to demonstrate that the family was residing in Pidatamamidi village even prior to 1900.

5. The 1st respondent appears to have called for a report from the 2nd respondent regarding the community status of the petitioners. Based on the said report, the 1st respondent issued a show-cause notice dt. 7-9-89 proposing cancellation of the community status certificates of the petitioners. The basis for the above proposal is the finding contained in the report of the 2nd respondent submitted to the 1st respondent dt. 17-7-89, which has however, not been communicated to the petitioner. Thereupon, on behalf of the petitioners a representation was made to the 1st respondent dt. 7-10-89 seeking supply of a copy of the 2nd respondent's alleged report dt. 17-7-89 to enable submission of effective explanation by the petitioners. The petitioners in the said representation also sought adequate time to offer their explanation/objections. The respondent, the petitioners complain, without either supplying the report of the 2nd respondent or affording reasonable time passed the impugned order cancelling the various Social Status Certificates issued by the competent authorities in favour of the respective petitioners.

6. The petitioners assail the 1st respondent's order impugned herein on various grounds namely that it suffers from vice of violation of principles of natural justice as the report of the 2nd respondent dt. 17-7-89 on which it is based has not been furnished to the petitioners, thus denying them a reasonable and fair opportunity to rebut the conclusions

of the 2nd respondent, which substantively weighed with the 1st respondent in concluding that the petitioners do not belong to "Konda Kapu" community. The petitioners also assail the impugned order on the ground that it is based on illogical, irrational and perverse reasoning. It is contended that the conclusion is arrived at for the reason that some members of the petitioners' family including the 1st petitioner, have married girls of plain Kapu community, who do not belong to Scheduled Tribe community and that this fact impliedly warrants an inference that the petitioners too do not belong to Konda Kapu community. This inference is based not on reason or logic but on flights of fancy, contend the petitioners. It is also asserted by the petitioners that the 1st respondent has irrationally declined to give credence to the birth extracts and entries in the school and other records of the family members of the petitioners, which show them as belonging to Konda Kapu community, on the ground that certificate entries might have been procured by the respective members of the petitioners' family in anticipation of the concessions that would be available to the members of Konda Kapu community. This reasoning of the respondent is fanciful, conjectural and therefore invalid, is the contention.

7. On the admitted factual scenario each of the petitioners have a certificate issued by the competent authority certifying them as belonging to Konda Kapu community. Public law principles enunciate, on settled doctrine, that there is a prima facie presumption of validity of public orders duly made. The petitioners must thus be considered, prima facie, belonging to Konda Kapu community. The burden of demonstrating that they do not so belong and that the certificates are vitiated by factual errors, is thus on the respondents. The respondents are obligated to discharge the said burden by marshalling cogent, rational and legal evidence in respect of the conclusion to resile from the earlier certification of the petitioners' community and in respect of their decision to cancel the certificates issued in favour of the petitioners.

8. The question is whether the respondents have discharged such a burden in a measure which stands the scrutiny of this Court under Art. 226 of the Constitution?

9. The impugned order begins with a premise that Varre Venkata Narasaiah, the grandfather of the petitioner and Varre Veeraiah the grandfather of a cousin of the petitioners one Varre Apparao, were brothers, who having been declared as "Kapu" by the Sub-Collector, Rampachodavaram, and the marriages of some family members of the Varre clan having taken place outside the community and substantially with the Kapu community people the Varre family must also fall to be considered as belonging to Kapu community and not Konda Kapu.

10. The enquiry by the Sub-Collector is admittedly behind the back of the petitioners. The report of the Sub-Collector has not been furnished to the petitioners, despite their request for the same. In the circumstances, the determination by the Sub-Collector that Varre Venkata Narasaiah and Varre Veeraiah, the ancestors of the petitioners, belong to Kapu community could not have legally been considered as conclusive evidence that their family belongs to Kapu community and thus form the foundation for an order visiting the

petitioners with adverse civil consequence qua their community status. Reliance on the report of the Sub-Collector in the impugned order constitutes an infraction of the salutary principle of natural justice, Audi Alteram Partem and is thus liable to be declared as vitiating the impugned order.

11. In Para 3 of the impugned order the same theme is continued and the 1st respondent holds that in the absence of any endorsement with regard to the caste of Varre Venkata Narasaiah in his pension records and on the mere basis that the said Venkata Narasaiah is a resident of Pidatamamidi village and in view of the fact that the sons of Venkata Narasaiah and grandsons have married Kapu caste people and they are also being treated as Kapus in the society, it cannot be conclusively held that the petitioners belong to Konda Kapu community. Paras 4 to 6 recite the chronology of events and at para 7 there is a curious reasoning recorded. The reason runs thus - "Even if the father of Varre Venkata Ram Jaganmohan Rao (1st petitioner) is considered as Konda Kapu, it is clear that his mother belongs to Kapu Caste." A reference is then made to the letter of the Government of India, Home Department dt. 21-5-1977, which sets out guidelines to the effect that children born to parents either of whom belong to a Scheduled Tribe are to be treated as belonging to Scheduled Tribe. In the next sentence the 1st respondent states that it is thus clear to him that the 1st petitioner and his brothers have married Kapu caste people and therefore it is clear that they have been living with Kapus. The trajectory of 1st respondent's mind and the inference he wishes to draw on the analysis of the above facts is not clear to this Court nor is the learned Government Pleader is able to assist this Court to elucidate the reasoning of the 1st respondent as contained in Para 7 of the impugned order. Thereafter, at Para 9 of the impugned order it is stated that the 1st petitioner and his brothers (the other petitioners) not having furnished clear proof of their caste and that after examining the customs it is clear that they belong to Kapu community and not Konda Kapu and as such their caste certificates have been cancelled. It is apparent that the 1st respondent has taken care to withhold reasons wherever relevant and necessary. Nothing is stated as to what are the relevant customs of Konda Kapus, what are the customs that are followed by the petitioners or their ancestors and in what manner the customs of the Konda Kapus are at variance with the customs followed by the petitioners and their ancestors. The very vital determination, adverse to the petitioners in a very great degree which would affect their future status in the community as also their legitimate expectations of constitutional and other prerogatives such as in the matter of reservations, is thus seen to have been arrived at on the basis of scanty, irrelevant and jejune grounds. The conclusions are the product not of reason but of ipse dixit of the 1st respondent.

12. For the totality of reasons adduced above, I am unable to sustain the conclusions contained in the impugned order.

13. Mr. Duba V.N. Babu, learned Counsel for the petitioners would vehemently contend that as the cancellation of the caste certificate in the matter of petitioners' paternal cousin Varre Apparao has been invalidated by this Court by the judgment of a learned Single

Judge dated 3-2-1992 in W.P. 10870 of 1988 on the ground that the said cancellation was vitiated on account of successive enquiries into the same question, the petitioners herein must be considered to conclusively belong to Konda Kapu community and this Court must accordingly not merely to declare the invalidity of the impugned proceedings but further direct the respondents to forbear from re-opening the enquiries. It is contended that the successive enquiries against their cousin Varre Apparao must also be considered as successive enquiries against the petitioner herein having regard to the identity of enquiries viz., whether Varre family belong to Konda Kapu or otherwise.

14. This contention of Mr. Babu, learned Counsel for the petitioners, does not commend itself to this Court. The principle on which the enquiry against Varre Apparao has been invalidated by this Court is that it represents another episode of a series of enquiries and thus amounts to arbitrary executive action against Varre Apparao. That is not the situation here. The enquiry against the petitioners herein is the first of its kind as against them. There are no successive enquiries against the petitioners. The same principle cannot be imported to disable the respondents from conducting an enquiry against the petitioners, in the light of the orders impugned herein having been invalidated on the ground of absence of rational reasons and violation of principles of natural justice.

15. In the circumstances the writ petition is allowed. The impugned order of the 1st respondent is set aside. There shall however, be no order as to costs.