

M. Narayanappa

Vs

Government of Karnataka and Another

Writ Petition No. 11894 of 1985

(R. B. Misra, G. L. Oza JJ)

06.09.1989

ORDER

1. The direction of this Court to link this writ petition with two civil appeals is recalled and the matters are delinked.
2. The point of dispute raised in this writ petition is in regard to the Presidential Order under Article 342(1) of the Constitution notifying the "Maleru" community in the State of Karnataka as a Scheduled Tribe. It appears that there is also another community by the name "Maaleru" members whereof also claim the benefit of the Presidential Order. While the petitioner contends that there is only one community and it is being differently described, the State has taken the stand that they constitute two separate communities and while members of one community are included in the Presidential Order, the others are not. On the basis of this stand adopted by the State some employees of the State Government who have earlier been given benefit of reservation are being proceeded against departmentally. Some criminal prosecutions have also been launched. On 23-1-1986, Karnataka Government came forward with an order, the relevant portion of which reads thus :

"Government are further pleased to order to make available to persons belonging to Maaleru and Kuruba communities the benefits available to the Scheduled Tribes relating to (a) reservation in admission to educational institutions and (b) educational concessions. Government are also pleased to order that no penal or disciplinary action shall be taken and prosecution if any, launched, shall be kept in abeyance and shall not be pursued against the persons belonging to Maaleru community for having obtained caste certificates as belonging to Maleru community and persons belonging to Kuruba community for having obtaining caste certificates as Jenu Kuruba or Kadu Kurba. Suspension orders, if any, issued shall be revoked in such cases and persons retrenched shall be reinstated."

3. The view expressed in the government order obviously is that the matter has to be examined and appropriate recommendations have to be made to the Central Government and until the investigation is made and appropriate action as envisaged in para 4 of the government order is taken, we see no justification for continuing the criminal proceedings or departmental action. We direct the State of Karnataka to withdraw all such proceedings - criminal or departmental - and expedite the process contemplated in their own order. Only when a positive conclusion is reached, depending upon the exigencies of the situation the Government may take such action as they consider appropriate. In that view of the matter without affecting the two appeals which are pending

before this Court, we direct that action as indicated above be taken by the Karnataka Government within four months hence. There shall be no order as to costs.

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