

Prabhudev Mallikarjunaiah

Vs

Ramachandra Veerappa and Another

Civil Appeal No. 4247 of 1996

(K. Ramaswamy, B.L. Hansaria, S.B. Majmudar JJ)

23.04.1996

JUDGMENT

1. This appeal under S. 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 of 1991. The appellant had filed his nomination as a Schedule Caste candidate to the Bidar-1 (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 Verrashiva 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.

2. Shri N. D. B. Raju, learned counsel for the appellant, contended that 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 High Court that he is not Beda Jangamma is not correct. He contends that among the Lingayaths, there are various sub-castes. Though, as a fact, it was found that the appellant's sub-caste is Verrashiva, in fact, it is only a Beda Jangamma. His father used to adopt begging which the Beda Jangamma caste would do. Consequently, the 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 therein 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.

3. It is seen that under Art. 341 of the Constitution, the Presidential Notification is conclusive subject to the amendment under clause (2) of Art. 341. In 1976, Schedule Castes, Schedule 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 Schedule 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 Schedule 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 Art. 341 of the Constitution.

4. 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 Veerahiva 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 divers reasons, with which we agree, the same was rightly rejected.

5. 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 contesting 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 Jangammas 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.

6. Thus considered, we hold that there is no warrant for finding that the appellant belongs to Schedule Caste entitling him to contest the election as a Schedule Caste Candidate.

7. The appeal is accordingly dismissed. No. costs. Appeal dismissed.