

Providing 5 per cent Reservations for Muslims by the Government of Andhra Pradesh, throughout history, there has never been a separation of Hindus, Muslims and Sikhs on the basis of religion. The 5 per cent Reservations to the Muslims, should not be a vote bank, changing religion into a political instrument is communalism by providing such Reservations. The Reservations of appointments of posts in favour of any Backward Class of citizens including Hindus, and minorities, this Reservations should be extended to other minorities like Sikhs, Jains, Buddhists and Christians.

The State Unit of All India Catholic Union (AICU) and Catholic Association of Hyderabad, Andhra Pradesh appealed to the Government of Andhra Pradesh to extend Reservations and benefits to Christian on par with Muslims and to pass the Dalit Christian Bill,¹².

Extend reservation to those who needed it

India is probably the only country where the rich enjoy the benefits availability from Indian resources, while the poor are enjoy the benefits availability of reservations under Constitution only. In our country, where social diversity is a fact, the architects of post independence India had come up with the idea, of reservations to provide ample opportunism to the weaker sections of the society. Such ample opportunities of reservations should be extended to those who needed, in educational institutions including

unaided private minority and non-minority institutions.

In globalization era, a number of private educational institutions and Universities have been established with a common view to provide education to all citizens of India. More than 80 per cent population are available from reserved communities like, B.C, S.C, S.T, and Christian and remaining less than 20 per cent non-reserved category population is not enough to take admission in the private educational institutions.

In this regard the Legislature has exclusive power to enact any law pertaining to reservation with-out interference of judiciary.

For the welfare of the weaker section people the Central Government or State Governments should enact legislation to prevent commercialization of professional educational institution and to provide reservation to them and such reservation benefit are always extended to those who needed it the most. Union Government to enact a central law to provide reservation for Scheduled Castes, Scheduled Tribes, Backward Classes, and most Backward Classes in unaided minority and non-minority professional educational institutions following the recent Supreme Court judgment abolishing quotas and reservation in such institutions. The Government is equally responsible for their welfare. The Reservation should be extended to the working class become equal ruling class.

A NOTE ON 2005 (5) ALD 675 (FB)

By

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Recently the Full Bench of the Andhra Pradesh High Court consisting of B. *Sudershana Reddy*, C.V. *Ramulu* and K.C. *Bhanu*,

JJ have delivered an important ruling on the A.P. Land Grabbing (Prohibition) Act, 1982 and the rules made thereunder. Apart from

12. The Hindu National News Paper P.4 dated 12-8-2005.

other aspects, the most important issues that fell for consideration of the Full Bench is about the scope and ambit of 'cognizance' of the case and the imperative adherence to Rules 6 and 7 of the rules.

Speaking for the Full Bench, his Lordship Sri B. Sudershana Reddy held that the Special Court or special tribunal constituted under the Land Grabbing Act should hold a threshold scrutiny of the case. For this purpose the SC or ST should examine the averments made in the application, documents filed and other material. In addition the ST or SC should direct the Mandal Revenue Officer of the concerned area to make inspection or verification or both and submit his report. According to his Lordship the report is of valuable assistance to the SC or ST in order to decide as to whether the application filed is a fit case to take cognizance. It ruled that such report is a mandatory requirement before taking cognizance of the case.

The Land Grabbing Act is a special enactment to deal with and arrest the activity of land grabbing by highly sophisticated rich and resourceful persons with their ingenuity of using all techniques of floating co-operative societies and fabricating documents. Initially when this Act was made special Courts were constituted with chairman and members. Later by the Amendment Act of 16 of 87 Special Tribunals were constituted with District Judges having jurisdiction in local area. Earlier the Special Courts were given power to take *suo moto* action or on reference to them, but the Special tribunals are vested with power under Section 7A to try all cases not taken cognizance by the Special Courts and the cases that are brought before them. It is also provided that any case pending before the SC before the commencement shall stand transferred to the ST. The ST is vested power to pass interim directions or orders. The jurisdiction of the ST is fourfold viz: (1) by

directly entertaining the applications (2) cases which are not taken cognizance by the SC (3) cases which are transferred by the SCs. (4) by transfer of all cases pending in all Courts relating to land grabbing.

Significantly the word 'cognizance' is used in Section 8 which is silent in Section 7A. The omission should be considered as deliberate. The SCs are expected to take cognizance of some select cases where valuable lands are involved and the evil designs of land grabbers are of considerable nature. On the other hand the ST are expected to try all cases, which are four fold, as stated above. The ST cannot refuse to try the cases when they are transferred from Civil Courts and cases sent by the SCs. The word 'cognizance' is used under sub-section 4 of Section 7A only for the purpose of issuing notification.

It is worthy of note that no reference is made in the Act, either under Section 8 or Section 7A, that a report from the MRO is to be called for under Rules 6 and 7. The threshold scrutiny envisaged under Section 7A is only to prevent abuse of jurisdiction by frivolous and vexatious cases. The Act envisages speedy and summary disposal of cases. When the circumstances demand the ST should pass interim orders or directions. Such power cannot be exercised if the ST is disentitled to take cognizance without the report of the MRO. What is more the report is not of any evidentiary value. It is only mere guidance to the SC or ST. Much of the land grabbing is taking place in urban areas. The Act applies to lands within the limits of urban agglomerations coming under Urban Ceiling Act and the municipalities. Several manipulations are made and agricultural lands are converted as vacant sites and layout approvals were secured. In the circumstances the report of the MRO is of doubtful value. So much importance need not be given and the report need not be made *sine quo non* for

entertaining the application or taking cognizance the land grabbing.

It is submitted that after the Act came into existence a number of cases were filed before the STs and decided. The High Court has decided several cases without giving importance or considering the report of MRO as mandatory. According to the language used in Rules 6 and 7 the report of MRO is a guidance for the ST. Hence it is a requirement of the Tribunal. If such as report is not available it is open to the ST to call for it at any time and take cognizance of the case without closing it or dismissing. It need not be cosigned records statistical purpose subject to revival. If the ST is satisfied with averments in the application and other documents *etc* the ST has to give weight, call for the report and issue notification. In fact the Full Bench has not rested its conclusions

on the basis of the report. But the Bench considered the facts of the case and found that it is a case without legs. It is always open to the ST to call for the report and proceed further *i.e.*, issuance of notification and notices to the respondents. The omission to call for report is curable and not fatal. The act or omission of the Court shall prejudice no one (*Actus curiae neminem gravabit*). The Apex Court ruled in 1996 (4) C.C.C 27 (SC) that a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable. Rules 6 and 7 of the LG Act are of procedural requirement. In the light of the above discussion I am the humble opinion that the Full Bench decision deserve reconsideration by way of review or otherwise since land grabbers should not be allowed to take advantage of procedural lapses and make unjust enrichment.

SPEECH BY SRI B. PURUSHOTHAMA REDDY, PRESIDENT, A.P. HIGH COURT ADVOCATES' ASSOCIATION DURING THE VISIT OF HIS EXCELLENCY Dr. A.P.J. ABDUL KALAM JI, PRESIDENT OF INDIA TO THE HIGH COURT OF ANDHRA PRADESH

His Excellency the President of India Dr. *A.P.J. Abdul Kalam Ji*, His Excellency the Governor of Andhra Pradesh Sri *Sushil Kumar Shinde Ji*, Hon'ble Chief Minister of Andhra Pradesh Dr. *Y.S. Rajashekar Reddy garu*, Hon'ble Chief Justice of A.P. High Court Sri *G.S. Singhvi Ji*, Hon'ble Justice Sri *Bilal Nazki Ji*, Hon'ble Minister for Law Sri *Konathala Ramakrishna garu*, Hon'ble Judges of the High Court, Hon'ble former Judges of the Supreme Court and Hon'ble former Judges of the High Court, my brother Advocates, ladies and gentlemen.

Today is a memorable day in the annals of the History of the High Court of Andhra Pradesh. We are celebrating the Golden Jubilee of our High Court and it is

gratifying that His Excellency the President of India Dr. *A.P.J. Abdul Kalam Ji*, an epitome of values in life has graced the occasion. His presence will be a source of inspiration and an occasion for emulation for all of us.

I do not intend to stand in the way of the esteemed audience and His Excellency the President of India. I would only emphasize the importance of the occasion in a few sentences. The High Court of Andhra Pradesh has a glorious History of its own. We find many instances across the country where institutions have been bifurcated and parts have become units. In our case it is the other way. Two full fledged High Courts, the erstwhile High Court of Hyderabad and the Andhra High Court which