



**IN THE HIGH COURT OF ANDHRA PRADESH**

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**W.P. No.21025 of 2020**

**Between:**

Dokku Phaneendra Prasad,  
S/o. Suryanagarayana,  
aged about 55 years,  
Working as Principal, Govt. Polytechnic College  
Visakhapatnam  
and another

.... Petitioners

AND

The State of Andhra Pradesh  
Rep. by its Principal Secretary  
Social Welfare (CV-1) Department,  
Secretariat, Velagapadu  
Amaravati Capital City, Guntur District  
and seven others

.... Respondents

DATE OF JUDGMENT PRONOUNCED: **14.06.2021**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? Yes / No
2. Whether the copies of judgment may be  
marked to Law Reporters / Journals? Yes / No
3. Whether His Lordship wish to  
see the fair copy of the Judgment? Yes / No

**U. DURGA PRASAD RAO, J**

**\* THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO****+ W.P. No.21025 of 2020****% 14.06.2021****Between:**

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.... Respondents

**! Counsel for Petitioners**

: Sri Subbarao Korrapati

**^ Counsel for Respondents**: learned Government Pleader  
for Social Welfare for R1 to R5

Sri T.S.N.Sudhakar for R7

**< Gist:****> Head Note:****? Cases referred:**

- 1) 1986 (1) An. W.R. 15 = 1985 (1) APLJ 252
- 2) 1985 (1) APLJ (HC) 252 = MANU/AP/0317/1984
- 3) 2001 (1) SCC 4 = MANU/SC/0724/2000
- 4) 2016 (5) ALT 117 = 2017 (1) ALD 51 = 2016 Lawsuit (Hyd) 260
- 5) AIR 1975 SC 2151 = MANU/SC/0475/1975
- 6) 2005 (2) ALT 773 = 2005 (2) ALD 374 = MANU/AP/0040/2005
- 7) 2009 (2) ALD 296 = MANU/AP/0807/2008
- 8) 2017 (2) ALD 667 = MANU/AP/0958/2016
- 9) 2000 (5) ALT 592 = MANU/AP/0964/2000

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO****Writ Petition No.21025 of 2020****ORDER:**

The petitioners seek a mandamus declaring the proceedings in R.Dis.C5/M/249/2014 dated 08.01.2018 of the 2<sup>nd</sup> respondent published in District Gazette, East Godavari District vide No.9/2018 dated 23.01.2018, which was confirmed by the 1<sup>st</sup> respondent vide G.O.Ms.No.65, Social Welfare (CV.1) Department dated 06.11.2020 as arbitrary, illegal and violative of principles of natural justice and Articles 14 & 16 of the Constitution of India and also the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act 16 of 1993') and rules framed thereunder and for a consequential order.

2. The petitioners' case is thus:

(a) The 1<sup>st</sup> petitioner is the father of 2<sup>nd</sup> petitioner. They belong to 'Beda Jangam' community which is included in the Scheduled Caste by the Government. The Tahsildar, Tuni issued certificate to 1<sup>st</sup> petitioner's father vide Ref.No.(H)/4600/81 dated 28.05.1982 to that effect. Later the 1<sup>st</sup> petitioner also got a similar certificate from Tahsildar, Tuni vide proceedings No.(H)/4600/81 dated 26.06.1982. Basing on the said certificate, the first petitioner was admitted into B.Tech. course by the Director of Social Welfare vide proceedings in Rc.No.E2/1-861/82 dated 30.08.1982.

(b) On completion of his technical education, the 1<sup>st</sup> petitioner was appointed as Lecturer in Computer Engineering in Government Polytechnic (W) College, Nandigama, Krishna District in the year 1995 in the SC quota



and later he was promoted as Senior Lecturer in the year 1998. Subsequently he was promoted as Head of the Department in the year 2003 and ultimately became the Principal in the year 2007. Further, pursuant to G.O.Ms.No.1793, Education dated 25.09.1970, the M.R.O. vide his proceedings SSID 0405-0001-1020-0504 dated 15.02.2007, issued a permanent caste certificate certifying that the 1<sup>st</sup> petitioner belongs to “Beda Jangam” community which is recognized as SC in the State of Andhra Pradesh and the same was endorsed by the RDO, Peddapuram.

(c) While so, on the complaint lodged by 7<sup>th</sup> respondent with the 2<sup>nd</sup> respondent alleging that the 1<sup>st</sup> petitioner obtained SC caste certificate fraudulently from the RDO, Peddapuram, the 2<sup>nd</sup> respondent referred the case to 3<sup>rd</sup> respondent to enquire into the matter. On instructions, the 5<sup>th</sup> respondent submitted his report to 2<sup>nd</sup> respondent vide proceedings dated 30.09.2014 stating that the 1<sup>st</sup> petitioner belongs to ‘Beda (Budaga) Jangam’ community. The 4<sup>th</sup> respondent also submitted his report to 3<sup>rd</sup> respondent on 13.01.2015 without conducting any enquiry as required under rules stating that the service register of 1<sup>st</sup> petitioner’s father showed him belonging to Jangam community and 1<sup>st</sup> petitioner’s school records showed him as ‘Jangam Devara’ community. The 4<sup>th</sup> and 5<sup>th</sup> respondents did not issue any notice to 1<sup>st</sup> petitioner or his father while submitting report to 3<sup>rd</sup> respondent,

(d) The 3<sup>rd</sup> respondent basing on a Memo No.543/12/84-1, Social Welfare (j) Department dated 03.04.1984, which was already set aside by the High Court of A.P. in **Nagam Chandrashekara Lingam v.**



**Government of India**<sup>1</sup>, submitted his report to 2<sup>nd</sup> respondent on 12.09.2017. However, the 2<sup>nd</sup> respondent without considering the petitioners' case in proper perspective, issued proceedings vide R.Dis.C5/M/249/2014 dated 08.01.2018, which was published in East Godavari District, Gazette No.9/2018 on 23.01.2018, and cancelled the caste certificate of 1<sup>st</sup> petitioner. Aggrieved, the petitioners filed appeal before 1<sup>st</sup> respondent and vide Memo No.1138271/CV.1/2018 dated 15.03.2018, who dismissed the appeal vide G.O.Ms.No.65, Social Welfare (V-1) Department, dated 06.11.2020.

Hence, the writ petition.

3. On behalf of the respondents 1 to 5, the 2<sup>nd</sup> respondent filed counter *inter alia* contending thus:

(a) The 7<sup>th</sup> respondent filed a complaint stating that the 1<sup>st</sup> petitioner obtained SC caste certificate fraudulently from Tahsildar, Tuni in 1982 and RDO, Peddapuram in the year 2007 and requested to cancel those certificates. On receiving the said complaint, the 2<sup>nd</sup> respondent directed the Chairman, District Legal Scrutiny Committee (DLSC) i.e., Joint Collector, East Godavari to enquire into the matter under Section 5(i) of the Act 16 of 1993.

(b) The DLSC on scrutiny of the documents produced by the 1<sup>st</sup> petitioner and respondent made the following observations:

(a) As seen from the records filed by the petitioner and report of RDO, Peddapuram, the caste of the petitioner was recorded as 'JANGAMADEVARA' which was a BC at the time of his school admission. Later, at the time of higher

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<sup>1</sup>1986 (1) An. W.R. 15 = 1985 (1) APLJ 252



education, the 1<sup>st</sup> petitioner obtained caste certificate as Beda (Budaga) Jangam – SC for reservation purpose. The records produced by the petitioner failed to confirm that he belonged to Beda Jangam caste. He also obtained a certificate for 2<sup>nd</sup> petitioner as belonging to Scheduled Caste fraudulently and obtained engineering seat in JEE, 2014 from NIT, Surathkal, Karnataka under SC reservation category.

(b) 1<sup>st</sup> petitioner's father Dokku Suryanarayana worked as Secondary Grade teacher and his caste was recorded as JANGAMs in service register which comes under backward classes.

(c) One Sri Dokku Ganapathi, who is the paternal uncle of 1<sup>st</sup> petitioner, was also noted as JANGAM in Pupils' Admission Form as certified by the HeadMaster, MPUP School, Kotananduru Village & Mandal. Hence, the 1<sup>st</sup> petitioner and his family comes under JANGAMADEVARA community of BC category, but not as Beda (Budaga) Jangam SC caste.

4. With the above observations, the DLSC recommended to 2<sup>nd</sup> respondent to cancel Beda (Budaga) Jangam SC caste certificates issued to the petitioners. Before taking decision, the 2<sup>nd</sup> respondent gave an opportunity to the petitioners to appear before him with recorded evidence in support of their caste claim. They appeared before him on 16.11.2017 and submitted a representation and produced certain GOs viz., (i) G.O.Ms.No.204, S.W (J) Dept. dated 23.09.1985 (ii) G.O.Ms.No.122, S.W (J) Dept. dated 06.06.1986 and (iii) G.O.Ms.No.96, S.W (J) Dept. dated 13.11.2017. The GOs (i) & (ii) are only instructions of the Government indicating the competent authorities for issue of caste certificates in respect of SC communities. In the 3<sup>rd</sup> G.O, the Government have appointed a retired IAS officer to examine about the existence of Beda/Budaga Jangam community in the State of A.P. They do not advance the cause of petitioners.



(a) On accepting the recommendations of the DLSC, the 2<sup>nd</sup> respondent cancelled the caste certificate of petitioners vide proceedings in R.Dis.C5/249/2014 dated 08.01.2018, which was notified in East Godavari District Gazette vide EG No.9/2018 dated 23.01.2018. Aggrieved, the petitioners filed appeal before the Government and the 1<sup>st</sup> respondent upheld the orders of the 2<sup>nd</sup> respondent vide G.O.Ms.No.65, Social Welfare (CV.1) Department, Government of Andhra Pradesh. Hence, the present writ petition is not maintainable.

(b) It is submitted that Beda Jangam community is restricted to Telangana region of United Andhra Pradesh and the said community is not in existence in A.P. and Rayalaseema regions as per G.O.Rt.No.167 dated 12.04.2017 of Social Welfare Department and Section 28 & Schedule 5 of the A.P. Reorganization Act, 2014. In that view, the petitioners can be said to have obtained the certificates fraudulently. The DLSC has followed the due procedure and made recommendation and thereafter also the District Collector has given fair opportunity to the petitioners for adducing evidence in support of their caste claim. However, they failed to substantiate their claim.

(c) The Government of A.P. has issued certain clarifications on the background of Beda (Budaga) Jangam vide Memo No.543/12/84-1, Social Welfare (J) Department, dated 03.04.1984. As per the same, they were recorded as traditional hunters and fowlers. They are cultivators/agricultural workers. They were reported to be found only in few villages in the combined State of A.P. They were said to be living outside the main village and are said to have suffered the disability of untouchability. On the other



hand, in the case of Jangam or Jangalu, who are recognized as BC community, they are quite respectable and socially superiors and the society treated them as JANGAMA DEVARAS. They are officiating as pujaris in famous Saiva temples. They will do Pourohityam and also funeral rites. They were not residing in scheduled caste areas, but reside in main villages along with other communities. There is no restriction for them to enter the Hindu temples. As per the report of RDO, Peddapuram, the family of writ petitioners was residing in the middle of the main village, but not in outskirts with scheduled caste people.

(d) It is further submitted that Beda (Budaga) Jangam community (SC) is restricted to ten districts of Telangana region of United Andhra Pradesh and the said community is non-existent in Andhra and Rayalaseema regions of United Andhra Pradesh. According to the A.P. Reorganization Act, 2014, the Beda (Budaga) Jangam community was again listed in Sl.No.9 of Part XXV of Telangana only.

(e) It is submitted that the Government of A.P. vide G.O.Rt.No.276, Social Welfare (CV.1) Department dated 31.07.2020 appointed Sri J.C.Sharma, IAS (Retd.) as Head of the “One Man Commission” to study and make recommendations to the Government on the issue of “Existence of Beda/Budaga Jangam Community in the State of Andhra Pradesh” and the report of Commission is still awaited. For all these reasons, the writ petition may be dismissed.





5. The 7<sup>th</sup> respondent filed counter contending thus:

(a) The petitioners belong to Jangam Devara community, which belongs to backward caste, as per school record admission No.1137 dated 18.06.1976, Z.P.P. High School, Kotananduru, East Godavari. This fact was confirmed by the Mandal Education Officer, Kotananduru through his report dated 05.09.2014. The father of 1<sup>st</sup> petitioner was a government teacher and his caste is Jangama as per his service register. The said caste belongs to non-SC as per D.O. letter No.16949/C.V.1/2012 dated 20.02.2013 of Principal Secretary, Social Welfare, A.P.

(b) While so, the Beda Jangam caste was recognized as Scheduled Caste upto 1977 in Telangana area only of united Andhra Pradesh. After 1977, the SC status was extended to Beda Jangams in Andhra and Rayalaseema regions along with Telangana area in united Andhra Pradesh. Taking advantage of the same, the 1<sup>st</sup> petitioner changed his caste as Beda (Jangam) from Jangam @ Jangam Devara to get reservation under Scheduled Caste category. Beda (Jangam) and Jangam @ Jangam Devara are two different castes. This difference was clearly explained in D.O. letter No.16949/C.V.1/2012 dated 20.02.2013 by the Principal Secretary, Social Welfare, A.P.

(c) The 1<sup>st</sup> respondent has observed four points in the report of 2<sup>nd</sup> respondent, basing on which, a decision was taken against the petitioners to dismiss their appeal. In passing the orders by the 2<sup>nd</sup> and 1<sup>st</sup> respondents, there was no violation of the provisions of the concerned Acts and Rules. The petitioners also participated in the enquiry. The authorities have given



ample opportunity to them at every stage and never violated the principles of natural justice.

(d) It is further submitted that the G.O.Rt.No.276, Social Welfare Department, dated 31.07.2020 mentioned in the affidavit is pertaining to Beda (Jangam) caste only and that has nothing to do with Jangam @ Jangam Devara caste. He prayed to dismiss the writ petition.

6. Heard the arguments of learned counsel for petitioners Sri Subbarao Korrapati, and learned Government Pleader for Social Welfare representing the respondents 1 to 5, and Sri T.S.N.Sudhakar, counsel for 7<sup>th</sup> respondent.

7. Challenging the cancellation of the caste certificates of the petitioners, learned counsel firstly argued that the petitioners belong to Beda (Budaga) Jangam community, which is a SC community, and the same is evident from certificate dated 28.05.1982 issued in favour of 1<sup>st</sup> petitioner's father Dokku Surayanarayana, and the certificate dated 26.06.1982 issued in favour of 1<sup>st</sup> petitioner by the Tahsildar, Tuni and also the certificate dated 30.08.1982 issued by the Director of Social Welfare, A.P., Hyderabad after verification of the social status of the petitioner and some others to enable them to get admission into B.A./B.Tech. course. On the basis of the aforesaid certificates, the 1<sup>st</sup> petitioner was appointed as Lecturer in Computer Engineering in Government Polytechnic (W) College, Nandigama, Krishna District in the year 1995 in SC quota and later promoted as Senior Lecturer in the year 1998. Subsequently he was promoted as Head of Department in the year 2003 and later as Principal in the year 2007. It is further argued that basing on G.O.Ms.No.1793, Education, dated 25.09.1970, as amended from



time-to-time, BCs, SCs, STs list (modification order 1956) and STs Amendment Act, 1976, a permanent caste certificate was issued to 1<sup>st</sup> petitioner by M.R.O, Kotananduru, countersigned by R.D.O, Peddapuram, certifying that he belongs to Beda (Jangam) community which is recognized as Scheduled Caste. Learned counsel would vehemently argue that all the aforesaid certificates would clearly indicate that after due enquiry of the social status of the petitioner and his family members only, those certificates were issued. However, on the complaint made by 7<sup>th</sup> respondent with false allegations, the 2<sup>nd</sup> respondent initiated fresh enquiry through DLSC, and after obtaining report, unduly cancelled the caste certificate of the 1<sup>st</sup> petitioner. In the appeal preferred by the 1<sup>st</sup> petitioner, the 1<sup>st</sup> respondent confirmed the order of 2<sup>nd</sup> respondent basing on the para-wise remarks of the 2<sup>nd</sup> respondent without communicating the same to 1<sup>st</sup> petitioner, which is violative of principles of natural justice. The orders passed by respondents 1 & 2 are arbitrary and illegal since they passed the orders considering the Memo No.543/12/84-1, Social Welfare (J) Department, dated 30.04.1984, issued by the Government without considering the fact that the said Memo No.543 and G.O.Ms.No.51 dated 20.03.1984 were set aside by the High Court of A.P. in the case of **Nagam Chandrasekhara Lingam vs. The Government of India**<sup>2</sup>. It is further contended that they wrongly held that Beda (Budaga) Jangam community is confined to only Telangana region and their presence is lacking in Andhra region. In a number of decisions, a fresh enquiry was ordered by the Hon'ble High Court to ascertain the existence of the said community in Andhra Pradesh. Therefore, it is quite unjust to come

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<sup>2</sup>1985 (1) APLJ (HC) 252 = MANU/AP/0317/1984



to a hasty conclusion that Beda (Budaga) Jangam community is not in existence in Andhra Pradesh and that the petitioners do not belong to said community and they obtained false certificates to claim benefits attached to SC community. It is further contended that the 2<sup>nd</sup> respondent submitted report to 1<sup>st</sup> respondent stating that the R.D.O. i.e., 4<sup>th</sup> respondent conducted an enquiry and submitted report on 20.09.2020. The said report of R.D.O. cannot be taken into consideration because while conducting the alleged enquiry, R.D.O. did not issue any notice to the petitioners and the said report was not served on petitioners by the respondents 1 & 2.

Learned counsel thus prayed to allow the writ petition.

**8.** Per contra, learned Government Pleader for Social Welfare strenuously argued that Jangam @ Jangam Devara and Beda (Budaga) Jangam are two different ethnic groups and distinct communities. The Jangams are basically Lord Shiva worshippers wearing Sivalingam and hence, called as Saivites or Lingadharis and they live in the village. Some of them officiate as Purohits of Shiva temples and perform certain austerities and hence, called “Ayyavarlu”. Some of them also attend the funerals of certain sects of the society by playing conch and ringing bell and get alms. They are primarily social inhabitants residing within the village and get respect. They are not untouchables in the esteem of public. They come under BC community. On the other hand, Beda (Budaga) Jangam people are basically nomadics and residing in exteriors of the village. They are fowlers and hunters and non-vegetarians. They are socially ostracized and untouchability is practiced against them. They belong to SC community.



Their presence is mainly confined to the Districts in Telangana and they are not found in Andhra Pradesh.

9. Learned Government Pleader further argued that the petitioners and their forefathers are Jangams @ Jangam Devaras and they belong to BC community. As per the letter dated 05.09.2014 of the Mandal Education Officer, Kotananduru addressed to the Tahsildar, Kotananduru, the school admission record of the 1<sup>st</sup> petitioner shows his caste as JangamaDevara-BC. So also, the service register of the 1<sup>st</sup> petitioner's father Dokku Suryanarayana would show him as Jangam. Further, the caste of Dokku Ganapathi, the paternal uncle of the 1<sup>st</sup> petitioner, was noted as Jangam – BC in Pupils Admission form as certified by the Head Master, MPUP School, Kotanandur Village. Learned Government Pleader strenuously argued that the earlier records pertaining to the petitioners' family members have decisively depicted that they belong to Jangam @ Jangam Devara community and they come under BC community. They led respectable social life and admittedly never suffered any untouchability which is one of the essential requirements for treating a community as Scheduled Caste. They do not belong to Beda (Budaga) Jangam caste which is SC community. Learned Government Pleader further argued that till 1976, as the Beda (Budaga) Jangam caste people predominantly confined to Telangana area of united Andhra Pradesh, the SC status was given to them only. However, in the year 1976, the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 came into force, by virtue of which the Beda Jangams and Budagajangams were declared as Scheduled Castes throughout



the State of Andhra Pradesh. Taking advantage of the same, the petitioners and their family members by misrepresenting the facts obtained caste certificates as Beda Jangam SCs to get benefits. However, on the complaint of 7<sup>th</sup> respondent, enquiry was conducted by DLSC and on its recommendation the 2<sup>nd</sup> respondent cancelled their certificates after due enquiry. The petitioners have participated in the enquiry and they were given fair opportunity to represent their case. The petitioners preferred appeal before the 1<sup>st</sup> respondent and the same was also dismissed. Since there is no arbitrariness or procedural deviation or violation of principles of natural justice in the matter of conducting enquiry and hearing the petitioners, the orders impugned suffer no legal infirmity and therefore, the writ petition is liable to be dismissed.

(a) Learned Government Pleader would submit, for another reason also the writ petition deserves dismissal. As per Section 28 of the A.P. Reorganization Act, 2014, the Constitution (Scheduled Castes) Order, 1950] (C.O.19) was amended and thereby Beda (Budaga) Jangam community which was mentioned in the entry No.9 was omitted from Andhra Pradesh and included in Part XXV of Telangana State. Thereby the Beda (Budaga) Jangam community is no more a SC community in Andhra Pradesh and hence, the petitioners cannot claim such social status.

(b) Finally he argued that the contention of the petitioners that the DLSC based its recommendation mainly on the strength of Memo No.543/12/84-1, Social Welfare (j) Department, dated 03.04.1984 which was set aside by the combined High Court of A.P. in the case of **Nagam**



**Chandrashekara Lingam** (supra 2) and hence, the impugned orders are legally unsustainable is untenable because the DLSC's recommendation was primarily based on the formidable documentary evidence showing the family members of the petitioners as Jangam @ Jangam Devaras, which is a BC community in the concerned records, but not on the strength of the said Memo. He thus prayed to dismiss the writ petition.

10. Sri T.S.N.Sudhakar, learned counsel for 7<sup>th</sup> respondent, adopted the arguments of learned Government Pleader for Social Welfare.

11. The points for consideration are:

- (1) Whether petitioners belong to Beda (Budaga) Jangam caste and thus classified as 'Scheduled Caste' community as per the Constitution (Scheduled Caste Order) 1950?
- (2) Whether the respondents 1 & 2 in their respective impugned orders wrongly held that the petitioners are JANGAMAS @ JANGAMA DEVARAS and belong to BC community, but obtained false caste certificates as Beda (Budaga) Jangam (SC) and whether those orders are factually and legally unsustainable?

Since the above two points are intertwined, they are dealt with together.

**The scope and ambit of judicial review on the caste certificate issues and on the validity of enquiry held by quasi-judicial authority (DLSC) under the Act 16 of 1993**

12. I gave my anxious consideration to respective contentions. While the petitioners contend that they belong to Beda (Budaga) Jangam-SC community, in rebuttal the contention of Government is that they belong to



Jangam @ Jangam Devara BC community and by misrepresentation of facts they obtained false certificates to get certain benefits attached to SC community. Thus, essentially the case pivots on the issue whether or not the petitioners belong to Beda (Budaga) Jangam caste which is notified as SC community in the Presidential order.

**13.** The scope of judicial review in a matter of public importance like the present one, came for consideration before the Hon'ble Apex Court in **State of Maharashtra vs. Milind**<sup>3</sup>. The issue before the constitutional Bench of the Apex Court was whether 'Halba Koshti' caste is a sub-tribe within the meaning of Entry 19 (Halba/Halbi) of the Scheduled Tribes Order relating to State of Maharashtra, even though it is not specifically mentioned as such and whether it was permissible to hold enquiry and let in evidence to decide the said issue. The Bombay High Court held that it was permissible to enquire whether any sub-division of a Tribe was a part and parcel of the Tribe mentioned in the Constitution Scheduled Tribes Order, 1950. The validity of the said judgment was in question before the Apex Court. On verifying Articles 341, 342 of the Constitution and Presidential orders, the Apex Court expounded thus:

“**13.** xxxx..... Whether a particular caste or a tribe is Scheduled Caste or Scheduled Tribe as the case may be within the meaning of the entries contained in the Presidential Orders issued under clause (1) of Articles 341 and 342 is to be determined looking to them as they are. Clause (2) of the said Articles does not permit any one to seek modification of the said orders by leading evidence that the caste / tribe (A) alone is mentioned in the Order but caste / tribe (B) is also a part of caste / tribe (A) and as such caste / tribe (B) should be deemed to be a scheduled Caste / Scheduled Tribe as the case may

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<sup>3</sup>2001 (1) SCC 4 = MANU/SC/0724/2000





be. It is only the Parliament that is competent to amend the Orders issued under Articles 341 and 342. As can be seen from the Entries in the Schedules pertaining to each State whenever one caste / tribe has another name it is so mentioned in the brackets after it in the Schedules. In this view it serves no purpose to look at gazetteers or glossaries for establishing that a particular caste/tribe is a Schedule Caste/Scheduled Tribe for the purpose of Constitution, even though it is not specifically mentioned as such in the Presidential Orders. Orders once issued under clause (1) of the said Articles, cannot be varied by subsequent order or notification even by the President except by law made by Parliament. Hence it is not possible to say that State Governments or any other authority or courts or tribunals are vested with any power to modify or vary said Orders. If that be so, no enquiry is permissible and no evidence can be let in for establishing that a particular caste or part or group within tribes or tribe is included in Presidential Order if they are not expressly included in the Orders. Since any exercise or attempt to amend the Presidential Order except as provided in clause (2) of Articles 341 & 342 would be futile, holding any enquiry or letting in any evidence in that regard is neither permissible nor useful.”

14. Then the scope of judicial review on the validity of enquiry conducted by DLSC is concerned, in **Janni Ganga v. Government of A.P.**<sup>4</sup>, on the basis of report of DLSC, the Collector cancelled the caste certificate of the petitioner therein and in appeal the order of the Collector was confirmed, which was challenged in the writ petition. In that context, the point for consideration before a learned Judge of High Court of Andhra Pradesh was whether DLSC followed the procedure prescribed under the Act 16 of 1993. Learned Judge held that the principle that is applicable for judicial review against the orders of the tribunals and enquiry authorities in departmental enquiries can be applied for the judicial review against the enquiry conducted by DLSC also. Incidentally learned Judge referred the decision

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<sup>4</sup> 2016 (5) ALT 117 = 2017 (1) ALD 51 = 2016 Lawsuit (Hyd) 260



in **State of Andhra Pradesh v. Chitra Venkata Rao**<sup>5</sup> which pronounced the scope of judicial enquiry in departmental enquiries. The Apex Court exhorted thus:

“21. xxxx.... The High Court is not a Court of Appeal under Article 226 over the decision of the authorities holding a Departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some consideration extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.”

15. Then, in the following cases, the concerned proceedings relating to cancelation of caste certificates were set aside on the ground that due procedure contemplated under the Act 16 of 1993 and Rules framed thereunder i.e., the Andhra Pradesh (SC, ST & BC) Issue of Community,

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<sup>5</sup> AIR 1975 SC 2151 = MANU/SC/0475/1975



Nativity and Date of Birth Certificates Rules, 1997 were not scrupulously followed.

(i) **Nagam Chandrashekara Lingam** (supra 2) was the case where the petitioner was selected in the year 1981 for Indian Administrative Service in SC quota as he claimed to belong to Beda (Jangam) community. Later, on enquiry, his caste certificate was cancelled and he filed the writ petition. The Division Bench of A.P. High Court observing that a number of persons were examined and their statements were recorded behind the back of petitioner without giving an opportunity to cross examine them and hence, the enquiry was vitiated, allowed the writ petition and set aside the impugned order. So also G.O.Ms.No.51 Social Welfare (J) Department, dated 20.03.1984 and also the Memo No.543/J2/84/1, dated 03.04.1984 which were relied upon by the Government to cancel the certificates were quashed.

(ii) In *S.C. Kotaiah and others Vs. District Collector, Nellore and others in W.P.No.9067/1987, dated 15.06.1991*, learned Judge of High Court of Andhra Pradesh while setting aside the order of the Sub Collector, Gudur refusing to issue community certificate to the petitioner as belonging to Beda Jangam (SC), deprecated that in the impugned order reliance was placed on Memo No.543/J2/84/1, dated 03.04.1984 which was set aside in **Nagam Chandrashekara Lingam's** case (supra 2) and directed that a fresh enquiry be conducted by an Officer not below the rank of Sub-Collector by following the guidelines issued in the Order.



(iii) In **Duda Ramesh v. State of A.P.**<sup>6</sup>, the District Collector by holding that the petitioner belongs to Adi Andhra caste and comes under BC-C, but not Valmiki (ST) as claimed by him, cancelled his Valmiki (ST) community certificate. In the resultant writ petition, the impugned order was set aside *inter alia* on the ground that reports and statements relied upon by the 3<sup>rd</sup> respondent were not furnished to the petitioner leading to violation of principles of natural justice.

(iv) In **Jadhav Rekoba v. Government of Andhra Pradesh**<sup>7</sup>, the cancellation order of the community certificate of the petitioner was set aside by the High Court of A.P. on the main ground that the report of the Scrutiny Committee was not furnished by the District Collector to the petitioner before passing orders under Section 5 of the Act.

(v) In **L.Sankar Rao v. Government of Andhra Pradesh**<sup>8</sup>, the order of the Government cancelling the caste certificate of the writ petitioner was set aside by the High Court of A.P. *inter alia* on the ground that after submission of the report by the Committee, no opportunity was afforded to the petitioner for making representation as mandated under Section 5 of the Act 16 of 1993.

(vi) In **J.Anuradha v. Govt. of A.P., Social Welfare Department**<sup>9</sup>, the show cause notice issued to the petitioner as to why her community certificate should not be cancelled was set aside by the High Court of A.P. for the reason that the show cause notice was issued without conducting enquiry as per Rules 9 & 18 of the Rules, 1997.

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<sup>6</sup> 2005 (2) ALT 773 = 2005 (2) ALD 374 = MANU/AP/0040/2005

<sup>7</sup> 2009 (2) ALD 296 = MANU/AP/0807/2008

<sup>8</sup> 2017 (2) ALD 667 = MANU/AP/0958/2016

<sup>9</sup> 2000 (5) ALT 592 = MANU/AP/0964/2000



16. From the above jurimetrics, the jurisprudence that evolved is thus:

(i) A particular caste or tribe as mentioned in the concerned entries of Constitution Scheduled Castes Order and Scheduled Tribes Order, 1950 as such can only be taken up for consideration, but the State Governments or any authority or Courts or Tribunals have no power to conduct enquiry and allow evidence to recognize any particular caste or tribe as subcaste or subtribe of the original caste or tribe mentioned in the concerned Presidential Order.

(ii) The scope of judicial review in respect of enquiry held by DLSC is similar to that of enquiries held by Tribunals, enquiry authorities and departmental enquiries. The High Court is not sitting on appeal against such enquiries, but its judicial review is limited to the extent of observing whether the enquiry proceedings are in deviation of procedure contemplated under relevant statute and rules; violation of principles of natural justice; whether the conclusions were influenced by irrelevant considerations and wholly arbitrary and capricious.

On the anvil of above peroration, the case on hand has to be scanned.

**CONSTITUTIONAL VICISSITUDES OF BEDA (BUDAGA) JANGAM CASTE:**

17. So far as Beda (Budaga) Jangam caste is concerned, a perusal of the Constitution (Scheduled Castes) Order, 1950 (C.O.19) as amended by Scheduled Castes and Scheduled Tribes Order (Amendment) Act 63 of 1956 w.e.f. 25.09.1956 would show that in the State of 'Andhra', 32 castes were recognized as Scheduled Caste communities. The Beda (Budaga) Jangam



was not found place in the list i.e., in the State of Andhra. While so, pursuant to formation of State of Andhra Pradesh with the inclusion of Telangana, the Scheduled Castes, Scheduled Tribes list (Modification) Order, 1956 was passed in terms of Section 41 of the States Reorganization Act, 1956. As per the said Modification order, 1956, the Beda (Budaga) Jangam caste was included as Scheduled Caste in the Districts of Hyderabad, Mehaboobnagar, Adilabad, Nizamabad, Medak, Karimnagar, Warangal, Khammam and Nalgonda of united Andhra Pradesh. Thus, it is pertinent to note that the Beda (Budaga) Jangam was recognized as SC community only in Telangana region, but not in the Andhra and Rayalaseema regions of united Andhra Pradesh.

(a) Be that it may, subsequently the Scheduled Castes, Scheduled Tribes Orders (Amendment) Act 108/1976 was passed by the Parliament w.e.f. 18.09.1976, whereunder the Scheduled Castes order specified in the first schedule was amended and so far as the caste Beda Jangam, Budaga Jangam is concerned, it was included in entry No.9 and made applicable to the entire State of Andhra Pradesh. Thus, from the year 1976 onwards, the aforesaid caste was notified as Scheduled Caste as per the amendment Act 108/1976.

(b) While so, by virtue of constitution (Scheduled Caste) Orders (2<sup>nd</sup> amendment) Act 61/2002, dated 17.12.2002, the geographical operation of Beda (Budaga) Jangam as SC was restricted to Telangana region only.



(c) While so, the State of Telangana was formed on bifurcation of the existing State of Andhra Pradesh by virtue of Andhra Pradesh Reorganization Act, 2014, and consequently, the Constitution (Scheduled Castes) order 1950 (CO 19) was amended in terms of Section 28 and Vth Schedule of the said Act, and Beda (Budaga) Jangam was omitted from Item No.9 of Part-I relating to Andhra Pradesh and inserted as Item No.9 of Part-XXV of Telangana, meaning thereby, the Beda (Budaga) Jangam caste was omitted from the list of Scheduled Caste in relation to Andhra Pradesh and added to the State of Telangana.

The above are the constitutional vicissitudes of Beda (Budaga) Jangam caste with reference to its geographical limitations.

**DISTINCTION BETWEEN JANGAMA @ JANGAMA DEVARA AND BEDA (BUDAGA) JANGAM CASTE:**

18. The respondent State sought to project that the petitioners and their family members belong to Jangama @ Jangama Devara caste which is a backward community and they do not belong to Beda (Budaga) Jangam caste which is a SC community. It is further pleaded that Budaga Jangam Community is restricted to Telangana region of united Andhra Pradesh and it was not in existence in Andhra and Rayalaseema regions. Jangama @ Jangama Devaras are backward class community and they did not suffer social untouchability rather they are socially respectable persons. They officiate as Pujaris in Saiva temples. They reside in the main village. On the other hand, Beda (Budaga) Jangam community people are traditional hunters and fowlers. They also attend cultivation and agricultural works.



They reside in the outskirts of villages being ostracised. The said distinction was to some extent discussed in *Nagam Chandrasekhara Lingam's case* (Supra 2).

(a) In my considered view, the probe into above distinction is only academic in nature for the reason that since inception till now, in the Constitution (Scheduled Caste) Order, 1950 the “Beda (Budaga) Jangam” alone was notified as Scheduled Caste but its phonetic equivalent “Jangama @ Jangama Devara” was never shown as Scheduled Caste. Therefore, going by the ratio in *State of Maharashtra Vs. Milind* (Supra 3), this Court cannot conduct enquiry as to whether “Beda (Budaga) Jangam” and “Jangama @ Jangama Devara” are one and the same caste or whether they are sub-sects of main caste Jangama. It is only when the petitioners are able to establish that they in fact belong to Beda (Budaga) Jangam caste and basing on the said fact only they were issued caste certificates with social status ‘SC’, their case can be considered in this writ petition.

**VALIDITY OF THE IMPUGNED ORDERS PASSED BY RESPONDENT NOS.1 & 2:**

19. On the direction of this Court, learned Government Pleader for Social Welfare produced the file relating to enquiry conducted by DLSC. A scrutiny of the same shows that on the complaint received from respondent No.7 against the petitioners, the 2<sup>nd</sup> respondent referred the matter to DLSC, which conducted the enquiry in terms of Act No.16 of 1993 and its rules and submitted its report vide Ref No. C5/M/249/2014, dated 12.09.2017. The enquiry file contains the observations and report of DLSC. The said report





shows that both the complainant (respondent No.7) and writ petitioner attended before the DLSC and presented their case along with documents. A perusal of the findings of the DLSC would show that having regard to the fact that in the school records the caste of the 1<sup>st</sup> petitioner was mentioned as Jangama Devara but later at the time of higher education, he obtained caste certificate as Beda (Budaga) Jangam for reservation purpose, the DLSC came to the conclusion that their family come under Jangama Devara a BC community but not under Beda (Budaga) Jangam SC community. The Collector forwarded the said findings of the DLSC to the petitioners *vide* his notice Ref No.C5/249/2014, dated 24.10.2017 and instructed them to attend before him for enquiry. Pursuant to the notice, the petitioners appeared for enquiry before the Collector on 16.11.2017 and submitted three G.Os. issued by the Social Welfare Department and some other documents which were already produced before the DLSC. Having observed that those G.Os will not serve as evidence in support of the claim of the petitioners and the other documents produced were already filed before the DLSC, the Collector passed the impugned order cancelling the caste certificates of the petitioners. The resultant appeal was also dismissed.

**20.** I gave my anxious consideration to the impugned orders. The gravamen of the complaint of the 7<sup>th</sup> respondent as can be seen from the complaint petition and statements submitted before the DLSC and Collector, is that the petitioners do not belong to Beda (Budaga) Jangam caste and hence they do not come under SC community; they belong to Jangama @ Jangama Devara caste which is a BC community; however, by



misrepresentation of facts that Jangama @ Jangama Devara caste and Beda (Budaga) Jangam caste are one and the same, they obtained false SC certificates and secured job and promotion also. Before DLSC, the complainant produced the copy of the admission particulars of 1<sup>st</sup> petitioner in ZPP High School, Kotananduru showing his caste as “Jangama Devara” (*vide* page 93 of Volume-I of enquiry file). A perusal of the said copy shows that it was issued by the Head Master, Z.P.P High School, Kotananduru. Under admission No.1137, dated 18.06.1976, the 1<sup>st</sup> petitioner Phaneendra Prasad Dokku, S/o Suryanarayana was admitted in 6<sup>th</sup> Class and his date of birth was recorded as 15.07.1965 and caste was recorded as “Jangama Devara”. He also produced a copy of service book of Dokku Suryanarayana, father of the 1<sup>st</sup> petitioner showing his caste as “Jangam” (*vide* page 279 of Volume-I). Further, the letter dated 05.09.2014 (*vide* pages 193, 195 and 197 of Volume-I) addressed by Mandal Education Officer, Kotananduru Mandal, East Godavari District shows that as per the record sheet and T.C of the 1st petitioner issued by Head Master, P.S. Elementary School, Jagannadhapuram, his caste was mentioned as “Jangama Devara” backward class.

**21.** As against the above, the 1<sup>st</sup> petitioner submitted a written representation dated 01.07.2017 before DLSC. His claim is precisely thus:

*“I belong to Beda Jangam community, in which my forefathers, grandfather, my father and at present my uncle (my father’s brother) in my native place of Kotananduru (V), used to follow and practice our community system of performing funeral rites i.e., follow the corpse in any of the families by blowing conch (Sankham) and ringing the bell in front of the corpse to the burial ground and after completion of the last rites the family members of the*



*deceased person used to pay some money or Dakshin. We are 100% non-vegetarians, widow marriages are permissible in our families. We are generally called as Jangam or Jangam Devara in public even though we are Beda Jangams. We are not aware of any G.O's regarding existence of Beda Jangam community in the list under SC category, until we came to know "The scheduled castes and scheduled tribes (Amendment) Act 1976, No.108 of 1976 (18<sup>th</sup> September, 1976) in which the Beda Jangam community was declared throughout the state without any area restriction."*

To bolster his case, the 1<sup>st</sup> petitioner also produced some documents before the DLSC. The xerox copy of community certificate dated 26.06.1982 issued by Tahsildar, Tuni shows that the 1<sup>st</sup> petitioner belongs to Beda Jangam community included in the Scheduled Caste (*vide* page-7 of Volume-I). He also produced copy of letter No.B2/14861/82, dated 30.08.1982 addressed by Director of Social Welfare, A.P, Hyderabad to Director of Evaluation, JNTU, Hyderabad (*vide* page No. NIL of Volume-I) stating that upon verification he found the social status of the 1<sup>st</sup> petitioner and some others as correct. The 1<sup>st</sup> petitioner also produced a copy of integrated caste certificate dated 26.02.2007 issued by R.D.O, Peddapuram (*vide* page-37 of Volume-I) which shows that the 1<sup>st</sup> petitioner belongs to Beda Jangam (SC). He also produced his service book showing his caste as "Beda Jangam (SC)".

**22.** Thus, the case of the 1<sup>st</sup> petitioner is that though they belong to Beda (Budaga) Jangam community, they are generally called as Jangam or Jangama Devara in public. He thus sought to explain that in his school records and in the SR of his father, their caste was generally referred as Jangama Devara. However, this contention did not find favour with DLSC. Having observed that the earlier school admission record showed his caste as



Jangama Devara, the DLSC rightly did not give weight to subsequent record obtained from 1982 onwards. If really Jangama, Jangama Devara and Beda (Budaga) Jangam are one and the same and they are sub-sects of Jangama Caste as contended by the petitioners, there was no reason why the 1<sup>st</sup> petitioner and his father did not get mention their correct caste name in the concerned records at the earliest point of time. It is only after 1976 amendment, they started obtaining certificates with the social status as “Beda Jangam (SC)”. Therefore, the subsequent certificates cannot be given much weight in the light of earlier records showing a different caste. Further, as per Section - 6 of Act 16 of 1993, the burden of proof rests heavily on the petitioners, but they did not produce cogent material to buttress their contention that Beda Jangam caste people are generally and commonly called as Jangama @ Jangama Devaras by the public. Even otherwise, going by the ratio in *Milind’s case* (Supra 3), when Jangama and Jangama Devara are not included in the scheduled caste order, the contention of the petitioners that they are synonymous with Beda (Budaga) Jangam cannot be accepted to confer the social status of SC. The further contention of the petitioner is that the findings of the DLSC are vitiated for the reason that it followed the Memo No.543/12/84-1 Social Welfare (J) Department dated 03.04.1984 which was set aside in *Nagam Chandrasekhara Lingam’s case* (Supra 1). This argument holds no much water for the reason that the DLSC only referred the said Memo but its findings was based mainly on the earlier records of the petitioner and his father.



23. It is informed that a Commission is pending to submit its report *inter alia* on the subject about the existence or non-existence of Beda (Budaga) Jangam community in the State of A.P. and report is awaited. In my view, the said report will have no impact on the case on hand as the petitioners failed to establish that they belong to Beda (Budaga) Jangam caste but not Jangam (Jangama Devara) community.

24. So, on a conspectus of facts and law, I find no illegality or irregularity in the findings of the DLSC and consequent impugned orders of respondents. Accordingly, the writ petition is dismissed. No costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

14<sup>th</sup> June, 2021  
MVA/KRK

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**U.DURGA PRASAD RAO, J**



HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.21025 of 2020

14<sup>th</sup> June, 2021

MVA/KRK

