THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT APPEAL Nos.743 & 744 OF 2014 AND 148 OF 2020

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice C.V.Bhaskar Reddy)*

This common judgment disposes of all the writ appeals.

2. W.A.No.743 of 2014 arises out of W.P.No.19085 of 2013 filed by the appellants therein as the writ petitioners and W.A.No.744 of 2014 arises out of W.P.No.15688 of 2011 filed by the appellants therein as the writ petitioners. W.P.Nos.15688 of 2011 and 19085 of 2013 were dismissed by the learned Single Judge by common order dated 17.04.2014.

3. W.A.No.148 of 2020 arises out of W.P.No.24517 of 2019 filed by the appellant as the writ petitioner. The said writ petition was dismissed by the learned Single Judge by order dated 02.12.2019.

4. Challenge made in W.P.Nos.15688 of 2011 and 19085 of 2013 was to declare the action of the respondents in treating Mangapet Mandal, Warangal District as a

scheduled area and in reserving all offices of Gram Panchayats therein in favour of the Scheduled Tribes by notification dated 25.06.2013 as illegal and also contrary to the judgment of this Court in W.P.No.1413 of 1973, dated 30.11.1973. Consequential direction was also sought to set aside the said notification to the extent of reserving all the offices of the Gram Panchayats of Mangapet Mandal in favour of Scheduled Tribes.

5. A similar notice dated 13.08.2019 issued by the Tahsildar, Garla Mandal, Mahabubabad District, treating the village of writ petitioner in W.P.No.24517 of 2019 as scheduled village was challenged in the said writ petition.

6. As the subject matter of W.P.Nos.15688 of 2011 and 19085 of 2013 being the same, both the said writ petitions were heard together and dismissed by the learned Single Judge. Brief facts stated in writ petitions are as follows:

6.1. The case of writ petitioners was that Mangapet Mandal consists of 23 revenue villages and 80 Gram Panchayats which were not declared as scheduled areas by the President of India under Para 6(1) of the Fifth Schedule

to the Constitution. In the elections conducted in the year 2006, the respondent authorities had reserved the offices of local bodies in the said villages and Gram Panchayats in favour of Scheduled Tribes, which was challenged in W.P.No.14068 of 2006. Though an interim order was passed in the said writ petition staying the election notification, the writ petition was subsequently dismissed on 03.08.2006.

6.2. Some of the villagers of Mangapet Mandal filed W.P.No.1413 of 1973 seeking to restrain the authorities from applying the Andhra Pradesh Land Transfer Regulation, 1959, as amended by the Andhra Pradesh Scheduled Areas Land Transfer (Amendment) Regulation, 1970, to their immovable properties situated in the said village. The said writ petition was allowed by this Court on 13.11.1973 holding that the villages in which petitioners owned their lands, were not notified in the Presidential Order. The matter was then carried in appeal, being W.A.No.486 of 1974, which was dismissed on 08.07.1974. From 1959 to 2006, all local body offices in Mangapet Mandal were open to the general category, subject to

reservation by rotation. By notification dated 21.04.1950 of the Nizam of Hyderabad State, Hyderabad State was divided into 16 districts. All the 23 villages which were in Mangapet Mandal were deleted from Paloncha Taluq and included in Mulug Taluq. The President of India issued notification dated 07.12.1950 under Para 6(1) of the Fifth Schedule to the Constitution excluding these 23 villages in Mulug Taluq from the list of Scheduled Areas and specifying other villages in Mulug Taluq as Scheduled Areas. Therefore, action of the respondents in treating these villages as schedules areas and in reserving local body offices in favour of Scheduled Tribes was challenged as illegal.

7. Counter affidavits were filed in both the writ petitions. It was contended that Mangapet Mandal consisted of 23 revenue villages which were organised into 18 Gram Panchayats. Notification dated 16.11.1949 was issued declaring the tribal areas in the State of Hyderabad and the last entry of Warangal District records the villages of Taluq and Samasthan of Paloncha as tribal areas with the exception of Paloncha, Borgamphad, Ashwaraopeta,

Dammapeta, Kaknur and Nellipak villages, as a result of which all the subject 23 villages which were then in Paloncha Taluq became part of the tribal areas in the erstwhile State of Hyderabad and in view of Article 372 of the Constitution of India, areas which were notified by the Government of Hyderabad as tribal areas continued to remain as such. List published by the Government of Hyderabad in the notification dated 16.11.1949 formed the basis of the Presidential Order dated 07.12.1950. Government of Hyderabad exercised powers under Section 5 of the Hyderabad Land Revenue Act, 1317 Fasli and issued notification dated 21.04.1950 for re-organisation of Taluqs, by which the subject 23 villages which formed part of Mangapet Mandal were separated from Paloncha Taluq and clubbed with Mulug Taluq of Warangal District, which came into force from 06.05.1950. Notification dated 21.04.1950 was limited to the determination of boundaries of the respective Taluqs and identification of the villages included in it. Mere fact that a particular set of villages were removed from one Taluq and merged with another would not result in their cessation as notified tribal areas.

When these 23 villages were clubbed into Mulug Taluq from 06.05.1950, they were still tribal area villages and the tribals of Mangapeta Taluq had been deprived of the benefits and protection given to scheduled areas and their lands had been encroached by non-tribals. It was the contention of the respondents that the intention behind issuance of notification dated 16.11.1949 was to rectify the wrong perpetuated all those years and the respondents had merely implemented the Presidential Order dated 07.12.1950 and the writ petitioners had no legal right to stop the election process as the constitutional rights of the Scheduled Tribes would be adversely affected. It was also stated in one of the counter affidavits of the respondents that this Court was not aware of the notification issued by the Government of Hyderabad dated 16.11.1949 while deciding W.P.No.1413 of 1973. Section 242-D of the Andhra Pradesh Panchayat Raj Act, 1994 requires offices of Presidents of Gram Panchayats in scheduled areas to be reserved in favour of the Scheduled Tribes; since the subject 18 Gram Panchayats comprising of 23 revenue villages were declared as “Scheduled Areas” in the

notification issued by the President of India dated 07.12.1950, the local body offices in the subject Gram Panchayats were required to be reserved in favour of the Scheduled Tribes. For the purpose of collection of land revenue and for better administration, the Government of Hyderabad had issued notification dated 21.04.1950 under Section 5 of the Hyderabad Land Revenue Act, 1317 Fasli, reorganising the Taluqs and forming Girdwar Circle in Warangal District and all the 23 villages, which formed part of Paloncha Taluq were shown in Girdwar Circle, Mangapet; all the villages in the Mangapet Mandal were treated as "Scheduled Areas" and offices, of local bodies therein, were reserved in favour of the Scheduled Tribes in the 2006 elections; even though the said action was challenged before this Court, elections were directed to be held and merely because local body offices were not reserved earlier in favour of the Scheduled Tribes would not confer any right on the petitioners to claim that these villages are non-Scheduled Areas. The President had declared the 23 villages of Mangapet Mandal, which were then in Paloncha Taluq of Warangal District, as "Scheduled

Areas" in the Scheduled Areas (Part B States) Order dated 07.12.1950 and as none of those facts were brought to the notice of this Court while deciding W.P.No.1413 of 1973, the said judgment did not constitute a precedent. It was also contended that the Chief Executive Officer, Zilla Praja Parishad, Warangal had submitted particulars informing that these 23 villages of Mangapet Mandal were located wholly in Scheduled Areas and the 23 villages, which were in Mangapet Mandal were originally part of Paloncha Taluq of Warangal District; the erstwhile Hyderabad Government had sent proposals to the Government of India for issuing the Presidential Notification under Para 6(1) of the Fifth Schedule to the Constitution to declare these 23 villages also as "Scheduled Areas" in Paloncha Taluq when the entire Paloncha Samsthan and Taluq were then in Warangal District. Due to abolition of Jagirs, Taluqs were re-organized by way of the notification dated 21.04.1950 published in the Hyderabad Extraordinary Gazette No.47 dated 23.04.1950; as a result the 23 Samsthan villages, which were hitherto part of Paloncha Taluq were tagged to Mangapet Circle of Mulug Taluq in Warangal District on

the ground of administrative convenience, before formation of Khammam District (Khammam District was formed in the year 1953 by Notification dated 18.09.1953). The "Scheduled Areas (Part-B States) Order, 1950 was issued solely on the basis of the proposals sent much earlier by the erstwhile Hyderabad Government. The 23 villages, which figured under Paloncha Samsthan (Paloncha Taluq) were notified as scheduled villages under Item 13 of the Presidential Order. As these villages figured under Paloncha Samsthan (Paloncha Taluq), its status would not change merely because these villages had, in the interregnum, been tagged on to Mulug Taluq; the list of villages, both in the Presidential Order dated 07.12.1950, and the notification dated 16.11.1949 issued under the Tribal Area Regulations 1359 Fasli are the same; and even the names of the villages appeared in the same order in both the lists. A similar counter affidavit was filed in W.P.No.19085 of 2013. It was stated therein that mere non-inclusion of these 23 villages of Mulug Taluq in the Presidential Order dated 07.12.1950 would not mean that they automatically become non-scheduled areas as these

villages were notified in Paloncha Taluq and even after formation of State of Andhra Pradesh, till it was repealed by Regulation II of 1963 dated 01.12.1963, these areas were governed by the Tribal Area Regulation, 1359 Fasli and the Rules made thereunder. 227 villages of Paloncha Taluq including the subject 23 villages were scheduled/tribal areas ever since 1949 and in view of Section 4(g) of the Andhra Pradesh Panchayat (Extension to the Scheduled Areas) Act, 1996, seats in panchayats in the "Scheduled Areas" were required to be reserved in favour of the Scheduled Tribes and the validity of Section 4(g) was upheld by the Supreme Court in **Union of India v. Rakesh Kumar**[1].

8. A common reply affidavit was filed by the petitioners in W.P.No.19085 of 2013. It was contended that Government of the erstwhile State of Hyderabad had issued notification dated 21.04.1950 dividing Hyderabad State into 16 Districts and notifying circles, villages and taluqs; under the notification dated 21.04.1950, Mangapet circle was in Mulug Taluq and consisted of 23 villages and the 23

[1] (2010) 4 SCC 50

villages of Mangapet Mandal were not notified as "Scheduled Areas" in the Presidential Order dated 07.12.1950. It was stated that this Court by its order in W.P. No.1413 of 1973 dated 30.11.1973, held that the 23 villages in Mangapet Mandal were not "Scheduled Areas", which confirmed in W.A. No.486 of 1974. The Presidential Order did not notify these 23 villages as agency areas is evident from the proceedings of the District Collector dated 20.07.2000, 17.10.2000 and 07.12.2000; the Director of Tribal Welfare, Government of Andhra Pradesh, in his proceedings dated 05.12.2003 specifically mentioned that these 23 villages were not included in the list of agency areas and by the time the Scheduled Areas (Part B-States) Order was issued on 07.12.1950, the subject 23 villages were excluded from Paloncha Taluq and included in Mulug Taluq of Warangal District by the notification dated 21.04.1950. These 23 villages cannot, therefore, be treated as Scheduled Areas in the absence of a Presidential notification. It was further submitted that at the time of issuance of the Notification dated 16.11.1949, the 23 villages of Mangapet Mandal were in Paloncha Taluq of

Warangal District and they were subsequently deleted from Paloncha Taluq and included in Mulug Taluq by notification dated 21.04.1950. Certain villages in Mahabubnagar District were not notified as “Scheduled Areas” in the notification dated 16.11.1949. However, the said villages in Mahabubnagar District were notified as Scheduled Areas by the Scheduled Areas (Part B States) Order, 1950. Petitioners contended that if the contention of the respondents were to be accepted, the villages of Mahabubnagar District could not have been notified as Scheduled Areas and the order of this Court in W.P.No.1413 of 1973 dated 30.11.1973 had been confirmed in W.A.No.486 of 1974 dated 08.07.1974 and has attained finality and as this Court has held that the 23 villages of Mangapet Mandal were not declared as “Scheduled Areas” by the Scheduled Areas (Part B States) Order, 1950, the respondents could not now take a different stand at this length of time and the notification dated 16.11.1949 was not in existence as it was repealed by the Andhra Pradesh Scheduled Areas Laws (Extension and Amendment) Regulation, 1963. The contention that

the Tribal Areas Regulation of 1949 was in existence and in force, by virtue of the provisions contained in Article 371 of the Constitution was contended to be misconceived. It was stated that as per Clause 3 of the Presidential Order, it was only the territorial divisions indicated therein which must be construed with reference to the territorial division of that name as existed at the commencement of the Order, but not otherwise and from the year 1950 till the year 2006, the 23 villages of Mangapet Mandal were treated as non-Scheduled Areas. That apart, several of the respondent-authorities had observed that these 23 villages were not notified as Scheduled Areas.

9. After considering the submissions of learned counsel for the parties in W.P.Nos.15688 of 2011 and 19085 of 2013, learned Single Judge elaborately considered the matter on the aspects of legislative measures taken to protect the Scheduled Tribes before Independence, regulations made by the erstwhile Hyderabad State prior to the commencement of the Constitution to protect the interests of tribals and the measures taken to protect the Scheduled Tribes after the commencement of the

Constitution of India. Learned Single Judge also examined the questions as to whether the notification dated 21.04.1950 denuded the subject 23 villages of the notified tribal area status conferred on them by the notification dated 16.11.1949 issued under the Tribal Area Regulations, 1359 Fasli and as to whether Tribal Areas Regulation, 1359 Fasli was the law in force immediately before the commencement of the Constitution of India under Article 372(1) thereof? Learned Single Judge also considered as to whether the judgment of this Court in **Koya Brahmanandam and others v. The Special Deputy Collector (Tribal Welfare), Warangal** (Judgment in W.P.No.1413 of 1973 dated 30.11.1973) was a precedent on a co-ordinate Bench. The issue which was also considered was as to whether Presidential Order dated 07.12.1950 made on the basis of the notification dated 16.11.1949 wherein these 23 villages were treated as part of Paloncha Taluq or was it made on the basis of the notification dated 21.04.1950 that these 23 villages formed part of Mulug Taluq of Warangal District. The consequences of these 23 villages being treated as non-scheduled areas pursuant to the judgment of this Court in W.P.No.1413 of 1973 for more than three

decades upto the year 2006 was also examined by the learned Single Judge.

9.1. After a detailed analysis of the submissions made on behalf of the parties and examining the relevant case laws, the learned Single Judge dismissed both W.P.Nos.15688 of 2011 and 19085 of 2013.

9.2. Insofar W.P.No.24517 of 2019 is concerned, the appellant/writ petitioner had filed the said writ petition alleging that he had purchased agricultural land to an extent of Ac.0.20 guntas in Survey No. 365/1, Ac.0.30 guntas in Survey No. 365/2, Ac.0.20 guntas in Survey No.366, Ac.1.12 guntas in Survey No. 367, Ac.2.27 guntas in Survey No. 372, Ac.1.22 guntas in Survey No. 404, Ac.0.19 in Survey No. 368, Ac.0.05 guntas in Survey No. 371 and Ac.0.05 in Survey No. 373/A, total land admeasuring Ac.8.00 guntas in Kannegudem Village, Garla Mandal, Mahabubabad District vide registered sale deed dated 20.09.2019 and had applied for mutation of his name in the revenue records and for issuance of pattadar pass books to the Revenue Divisional Officer, who in turn,

forwarded the said application to the Tahsildar for taking appropriate action. By notice dated 13.08.2019 the Tahsildar observed that Garla Mandal lands come under Schedule Area (Agency Area) and provisions of the Telangana State Scheduled Areas Land Transfer Regulations, 1959 (for short, 'Regulations, 1959') as amended by Regulations 1 of 1970 would apply and, therefore, appellant was advised to attend before him for enquiry. The said notice was challenged in the writ petition on the ground that Kannaigudem village was neither declared as forming part of scheduled area in the Presidential Order dated 7.12.1950 nor in Notification No.2 dated 16.11.1949 issued by the then Raj Pramukh, therefore, the Tahsildar gravely erred in issuing notice by invoking powers under the Regulations, 1959 and the said regulation had no application.

9.3. It was the contention of the appellant in the said writ petition that the Nizam had issued notification No.2 on 16.11.1949 notifying certain Mandals as forming part of agency area and imposing restrictions on enjoyment and

alienation of agricultural lands in those Taluqs; the list of Taluqs included in the notification was forwarded to the President of India to issue notification and accordingly the President of India issued notification on 07.12.1950; that notification dated 07.12.1950 was verbatim same as notified by the Nizam on 16.11.1949. In the notification dated 16.11.1949, Kannaigudem village was not included as forming part of Yellandu taluka and it was in Mahabubabad taluka. Therefore, subsequent notification No.21 dated 21.04.1950 issued by the Nizam reorganizing the talukas, whereby 27 villages of Mahabubabad taluka were transferred to Yellandu taluka including Kannaigudem village did not result in Kannaigudem village becoming scheduled village and it could not be shown as agency village. It was contended that as initial notification issued by the Nizam did not include Kannaigudem village as coming under schedule area merely because Yellandu taluka was forming part of schedule area subsequent to 16.11.1949 and before 07.12.1950, as part of reorganization of revenue administration by the then Hyderabad Government, included this village in Yellandu

Taluka, this village could not automatically become an agency village.

10. After due consideration of the matter, learned Single Judge dismissed W.P.No.24517 of 2019.

11. Learned counsel for the appellants/writ petitioners submits that learned Single Judge has not considered the fact in its perspective that Scheduled Areas (Part B States) Order 1950 dated 07.12.1950 issued under Paragraph 6 of Fifth Schedule to the Constitution has not notified the Mangapet Mandal of Mulugu Taluq, Warangal District as scheduled area and the fact that as on the date of promulgation of Presidential Order on 07.12.1950, Mangapet Mandal was not in Paloncha Taluq but in Mulug Taluq and in the Presidential Order several villages of Mulug Taluq were notified as Scheduled Area but Mangapet Mandal and its villages were not notified as scheduled areas. It is further submitted that after the advent of the Constitution, irrespective of historical, factual or legal situation, no land or area can be declared or recognized as scheduled area unless so notified explicitly

by Presidential Order as mandated by paragraph 6 of the Fifth Schedule of the Constitution of India. This Court had already settled the subject matter in its judgment dated 30.11.1973 in W.P.No.1413 of 1973 by declaring that Mangapet Mandal was not notified in the Presidential Order as scheduled area and the same was affirmed by the Division Bench in W.A.No.486 of 1974 dated 08.07.1974.

12. Learned Additional Advocate General has contended that erstwhile Government of Hyderabad had enacted Tribal Areas Regulation, 1356 Fasli for administration of tribal areas in the erstwhile State of Hyderabad. The said Regulation was replaced by Andhra (Telangana Tribal Areas) Regulation, 1359 Fasli. In exercise of the powers conferred under sub-section (2) of Section 1 of the said Regulation, Government of Hyderabad issued Notification No.2 dated 16.11.1949. By the said notification, all the villages of the Taluq and Samasthan of Paloncha excluding the villages of Paloncha, Borgamphad, Ashwaraopeta, Dammapeta, Kuknur and Nellipak were declared as scheduled villages. Consequent to the above notification, 23 villages which are subject matter of this area, have been

included as part of the Scheduled Area in the erstwhile State of Hyderabad. Further, learned Additional Advocate General also argued that in view of the saving clause under Article 372(1) of the Constitution of India, all the laws in the force in India immediately before the commencement of the Constitution shall continue in force until the same are altered or repealed or amended by the competent legislature. It is the contention of the learned Additional Advocate General that as on the date of adoption of the Constitution of India, the notification issued during the regime of the Government of Hyderabad is legally valid and therefore, all the 23 villages are the scheduled villages governed by the provisions of the Scheduled Areas Land Transfer Regulation, 1959 and also amenable to paragraph 6 of the Fifth Schedule of the Constitution of India.

12.1. It is the contention of the learned Additional Advocate General that unless these areas which have been notified by the Government of Hyderabad and were in force after adoption of the Constitution of India and unless the said villages are de-notified by issuing notification by the President of India, it cannot be treated as a plain area as

all the villages were part of Mulug Taluq. It is the further contention that at the time of issuance of the Notification they cannot be treated in isolation and separated from preliminary Notification which were in operation at the time of drafting of the Constitution of India.

12.2. It is also contended that Government is unable to protect the lands of the tribals from alienation due to non-application of Land Transfer Regulations to the subject villages primarily inhabited by the Scheduled Tribes and which have been encroached by the non-tribals. It is further contended that to rectify the wrong which has been perpetuated by robbing the tribal residents of these subject villages to reaffirming the constitutional status, the Government has declared the 23 villages as tribal areas and therefore, there is no legal infirmity in the impugned order warranting exercise of powers under Article 226 of the Constitution of India. It is further contended that the rectification orders have been issued for correction of earlier orders, as such the same does not require interference.

12.3. Learned Additional Advocate General while placing reliance on the findings recorded by the learned Single Judge has strongly contended that there is no error in the findings of the learned Single Judge and prayed for dismissal of the writ appeal.

13. Considered the submissions of the respective counsel and perused the record.

14. To decide the validity or otherwise of inclusion of 23 villages in the Scheduled Areas as mentioned in paragraph 6 of the Fifth Schedule of the Constitution of India, it is necessary to refer to the brief history and the legislative measures that were taken after commencement of the Constitution of India with effect from 26.01.1950. It is known fact that 90% of the population hailing from the tribal community were below poverty line and they are depending on agriculture or allied activities relating to agriculture. The State is making all efforts to bring the Scheduled Tribes on par with the other citizens of the Nation by making suitable legislations. Keeping in view the above said object even before the Constitution had been

adopted, the Princely States had also made Regulations to protect the interest of the Scheduled Tribes. The Government of Hyderabad, commonly known as Nizam Government had made the Regulations and also issued notifications exercising powers under the Tribal Area Regulations, 1359 Fasli and amendments therein from time to time and also as per the provisions of the Hyderabad Land Revenue Act, 1317 Fasli. By issuing notifications, the Government of Hyderabad had protected the interest of the tribal people residing in the scheduled areas even much prior to the adoption of the Constitution of India.

15. As per Article 372(1) of the Constitution of India, notwithstanding the repeal by the Constitution of the enactments referred to in Article 395 but subject to the other provisions of the Constitution, all the laws in force in the territory of India immediately before the commencement of the Constitution shall continue in force therein until altered or repealed or amended by a competent legislature or other competent authority. Admittedly, after adopting the Constitution of India, in

exercise of the powers conferred by Paragraph 6(1) of the Fifth Schedule of the Constitution, the President made the Scheduled Areas (Part B States) Order, 1950 dated 07.12.1950 declaring certain areas within the States in Part B of the First Schedule of the Constitution to be the Scheduled Areas. The Scheduled Areas (Part B States) Order 1950 was notified in S.R.O. 1031, dated 07.12.1950 and was published in the Gazette of India No.90 dated 07.12.1950. Paragraph 2 of the said order stipulates that the areas specified thereunder were declared to be the Scheduled Areas in Part B of the First Schedule to the Constitution. State of Hyderabad declared several villages of Mulug Taluq of Warangal District to be the scheduled areas. The subject 23 villages were among those declared by the Government of Hyderabad. These Scheduled Areas in the Telangana area of Hyderabad State which was a Part-B State as per the Scheduled Areas Order, 1950 continued to be governed by the provisions of the Tribal Areas Regulations, 1359 Fasli and Tribal Areas Rules, 1359 Fasli. Even after formation of the State of Andhra

Pradesh in the year 1956, Part V of the Fifth Schedule relates to the laws applicable to the scheduled areas.

16. In exercise of the powers under paragraph 5(2) of the Fifth Schedule to the Constitution, the Governor of Andhra Pradesh made the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation 1 of 1959) to regulate the transfers of land in the scheduled areas and these Regulations came into force with effect from 04.03.1959. These Regulations prohibit transfer of immovable properties situated in scheduled areas from the members of scheduled tribe to non-tribals without the previous sanction of the State Government. If any land is transferred from scheduled tribe to non-tribal in the agency area, the same is declared as null and void and the person aggrieved thereby is entitled to agitate his grievance before the authorities constituted under the said Regulations.

17. The Nizam, Ruler of the princely State of Hyderabad, had become the Raj Pramukh of the Part B State of Hyderabad after adoption of the Constitution on

26.01.1950 and continued till 1956. From 01.11.1956, the Telangana area of Part B State of Hyderabad along with the erstwhile State of Andhra became the State of Andhra Pradesh. The Ruler of the princely State of Hyderabad exercising the powers conferred under Section 5 of the Hyderabad Land Revenue Act, 1317 Fasli in supersession of all previous orders had issued notification dated 21.04.1950 annexing the rescheduling of the villages and the subject 23 villages which were in Paloncha Taluq were placed in Mulug Taluq of Warangal District for the purpose of land tenure. As per Article 372(1) of the Constitution of India, an order is a legislative Act which cannot be nullified by the executive act of the successor State; orders made by the governments of erstwhile States, continued to remain in force; they are effective and binding on the successor States unless they are not modified, changed or repudiated by the successor governments under the legislative domain. The notification dated 16.11.1949 issued by the Government of Hyderabad is still in force as it is the existing law within the meaning of Article 366(10) and Article 372(1) of the Constitution of India. Unless the said

notification is superseded, annulled, modified or amended by any subsequent order passed by the competent authority, it would continue to hold the field. As such the contention of the petitioners/appellants that these villages are not scheduled areas is not tenable.

18. The learned Single Judge has considered this aspect in proper perspective and after correlating the Government of India Act, 1935 and Regulations made thereunder applicable to the scheduled areas notified; the Tribal Areas Regulations, 1359 Fasli made by the Government of Hyderabad and published in government gazette and the Regulation of the above two enactments were correlated to paragraph 5 of the Fifth Schedule of the Constitution of India.

19. After referring to the above provisions, the learned Single Judge has examined the Rules framed under the 1359 Regulations known as Tribal Areas Rules with regard to exclusion of the jurisdiction of the civil and criminal courts to notified tribal areas and vesting of such powers in the agent or the tribal panchayats, and rejected the

contentions of the appellants/writ petitioners that the subject villages are not the scheduled areas. Referring to Regulations 1359 Fasli and Rules made thereunder vis-à-vis Article 366(10) and 372(1) of the Constitution of India, the position makes it very clear that in the absence of specific order denuding or deleting the tribal areas status conferred by the Tribal Areas Regulations, 1359 Fasli (1949 AD) to all these 23 villages, it cannot be said that the status given to these villages as scheduled areas came to an end in view of adopting the Constitution on 26.10.1950 or issuance of the Presidential Order i.e., Scheduled Areas (Part B States) Order, 1950 on 07.12.1950.

20. Learned counsel appearing for the respective parties have placed reliance on the various judgments which have been exclusively examined by the learned Single Judge. We have considered the various judgments referred to and relied by the respective counsel and we are in agreement with the proposition laid down therein ultimately prevailed over by the learned Single Judge in rejecting to grant any relief in favour of the petitioners.

21. In this backdrop of legal position, the appellants/writ petitioners cannot take advantage of non-implementation of these Regulations for the last fifty years and the benefits derived from the above Regulations or the enactment to the tribals as an advantage to contest in stating that these are non-tribal villages. The law made prior to adoption of the Constitution is enforceable even after adoption of the Constitution unless the competent legislature has amended the existing law to cater to the needs of the tribal community and therefore, this Court cannot find any fault with the findings recorded by the learned Single Judge in upholding the action of the respondents in treating the Mangapet Mandal of Warangal District as scheduled area and in reserving all offices of the Gram Panchayats therein in favour of the Scheduled Tribes and needs no interference by this Court.

For the above reasons, we are not inclined to interfere with the orders of the learned Single Judge and writ appeals fail and are accordingly dismissed.

Miscellaneous applications, pending if any, shall stand closed. There shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

Date:05.07.2023
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