

(Arising out of S.L.P. (C) No.22071 of 2003)

...Respondent(s)

...2/-

O.P. No.6265 of 1997 whereby order passed by the Tehsildar refusing to grant certificate was quashed and he was directed to issue a certificate in favour of the appellants. Curiously enough, this time, for the reasons best known to the State, a writ appeal was filed against the said order which, it appears, might have been filed at the instance of the delinquent Tehsildar, who was also one of the appellants in appeal and unfortunately Division Bench of the High Court instead of dismissing the appeal by awarding heavy cost, has remitted the matter to the Tehsildar for fresh enquiry in the matter without at all applying its mind and advertent to the fact that the order dated 2nd August, 1985, passed in the earlier writ petition attained finality, the same having not been challenged before any higher court. The present appeal has been filed by way of special leave.

In our view, the state of affairs in the State of Kerala, at the relevant time, was shocking. When High Court after due consideration recorded a finding that appellants belonged to Thandan community which was Schedule Caste and directed the Tehsildar to grant certificate in their favour, we really fail to understand how the officer of the State could dare to refuse to act in the teeth of order of the High Court which attained finality. As a matter of fact, it was a clear cut case of contempt in which Tehsildar could have been hauled up, but we do not propose to adopt that procedure as the order was passed in the year 1985, a period of twenty three years therefrom expired and the officer might have retired from service or even from this world. There cannot be better case than this for awarding heavy costs against the State Government, which must be paid to the appellants within a time fixed by this Court.

....3/-

Accordingly, the appeal is allowed with costs, impugned order passed by the Division Bench is set aside, the same passed by the learned Single Judge restored and the present Tehsildar is hereby commanded to grant the required certificate within one month from today. Hearing fee is assessed at Rupees fifty thousand, which shall be paid by the concerned District Magistrate to the appellants by demand drafts drawn in their favour drawn upon a local bank within the same time. All concerned would see that the directions aforementioned are carried out within the time schedule so that this Court may not be compelled to take any harsh action against them.

This order shall be communicated by learned counsel appearing for the State to the Chief Secretary with a copy to the concerned District Magistrate.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
July 14, 2008.