

(2006) 09 PAT CK 0095
In the Patna High Court
Case No : CWJC No. 10822 of 2005

Baban Prasad and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-09-2006

Acts Referred:

Citation : (2006) 4 PLJR 453

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Bindhyachal Singh and Prashant Kumar, Nadim Seraj, for the Appellant; Rajesh Kr. Singh, for the Respondent

Judgement

Barin Ghosh, J.—Heard learned counsel for the parties. Each of the petitioners was originally granted caste certificates describing them as members of Scheduled Tribe community for they belong to Gond caste. These certificates have been cancelled by an order issued by the Establishment Section of Buxar Collectorate bearing No. 59/ 2005-2006 dated 5th July, 2005. The subject matter of challenge in the instant writ petition is the said order dated 5th July, 2005.

2. It appears that distinction in between "Gnor", "Gaur" & "Gond" lost its importance at one stage. Accordingly each one of them claimed to be belonging to "Gond" community for the purpose of obtaining the status of Scheduled Tribe. Admittedly, member of "Gaur" and "Gnor" community arc not Scheduled Tribe. Ultimately when the authorities of the State started to realise the distinction in between these communities and the effect of such distinction, they looked into caste certificates issued in favour of the members of these communities describing them as belonging to "Gond" caste, and in course of doing so, considered the caste certificates issued in favour of the petitioners, and ultimately by the impugned order cancelled the same.

3. The petitioners have brought on record many documents to suggest that they belong to "Gond" community and accordingly they are members of Scheduled

Tribe community. Petitioner No. 1 has relied upon a document, which came into existence on 5th October, 1996, which suggests that the Petitioner No. 1 having been accepted as a member of the Scheduled Tribe community for he belongs to "Gond" caste, a piece of land belonging to the State was handed over to the petitioner No. 1 under the scheme through which the Government wanted to distribute land to landless members of Scheduled Tribe community. While the caste certificate of the Petitioner No. 1 has been cancelled, this document by which such land was granted to him, has not yet been cancelled and accordingly the petitioner No. 1 could rely upon the said document. That apart, the petitioner No. 1 has relied upon many documents; of them one is an ancient document which came into existence on 15th March, 1955, which suggests that wife of Somaru, a Gond by caste, had purchased a plot of land by and under the said document which was registered. There are documents emanating from governmental authorities including the Election Commission of India which suggest that Kishun was son of Somaru and the petitioner No. 1 is the son of Kishun.

4. Similarly petitioner No. 2 has also relied upon many documents which suggest that he belongs to "Gond" community. One of them is a piece of evidence recorded on 8th November, 1937 which suggests that one Laxman Prasad, by caste "Gond", gave evidence in connection with the said case on 8th November, 1937. The caste certificates issued by the Government suggest that Laxmi Narain was the son of Laxman; Manoj was the son of Laxmi Narain and petitioner No. 2 is the son of Manoj.

5. Similarly petitioner No. 3 has also relied upon many documents to suggest that he is "Gond" by caste. In this connection, reliance has been placed upon continuous khatiyani recorded in 1912 which suggests that one Tinbitwa was "Gond" by caste and he owned certain land. The caste certificates issued by the Government show that Mukhlal was the son of Tinbitwa; Rajnath was the son of Mukhlal and the petitioner No. 3 is the son of Rajnath.

6. That being the position, there was no just reason to hold, as has been held in the impugned order, that the petitioners are not "Gond" by caste and accordingly they do not belong to Scheduled Tribe community.

7. It is recorded that for the purpose of the present writ petition, I have specifically dealt only with the aforementioned documents, but in addition to that, the petitioners have relied upon many other documents which do suggest that they belong to "Gond" caste and accordingly are members of Scheduled Tribe community.

8. In those circumstances, the impugned order is struck down and accordingly the original caste certificates issued in favour of the petitioners stand revived.

9. In view of what has been stated above, it is declared that the petitioners have rightly been recommended by Bihar Public Service Commission as members belonging to Scheduled Tribe community, and accordingly, let the appropriate

authority take appropriate steps in accordance with law on the basis of such recommendation. This disposes of the writ application.