
(2023) 04 OHC CK 0189
In the Orissa High Court
Case No : Writ Petition (C) No.7961 Of 2023

Bimalini Nag

APPELLANT

Vs

Collector, Balangir And Others

RESPONDENT

Date of Decision : 19-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0189

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : Sohan Mishra, S. Pattanayak

Final Decision : Dismissed

Judgement

Arindam Sinha, J

1. The writ petition was moved on 21st March, 2023. On behalf of petitioner it was submitted, she is Hindu. In year, 1989 she obtained social status certificate saying she belongs to scheduled caste 'Ganda'. She obtained job by reservation. She married a Hindu.

2. Further submission was, there are conflicting entries in the record regarding, inter alia, her grandfather, father and others. Fact is, she belongs to the scheduled caste. Mr. Mishra, learned advocate appearing on behalf of petitioner had on that day prayed for direction upon the Collector to produce the record.

3. Submission on behalf of State was petitioner had performed all social functions like marriage, 21st day of new born child and last ritual of dead persons as per Christian traditions. In this context paragraphs 4 and 5 from order dated 21st March, 2023 are reproduced below.

"4. A paragraph from impugned order is reproduced below.

"Tahasildar, Balangir stated that, on verification of settlement RoR of Khata No.16 of mouza Kuthurla, PS No.72, under Balangir Tahasil, Dist-Balangir, it is seen

that, the above Khata is recorded in the name of Ujal Nag, S/o-Late Dinabandhu Nag, Caste Ganda Christian who is the grandfather of the appellant. The RI Kudasingha has conducted field enquiry in the presence of the villagers of Kuthurla and reported that, appellant is Christian by religion. So the SC status of the appellant is ceased and her SC certificate has been rejected w.e.f. 10.09.2021. Re-enquiry in the case was conducted by the RI, Kudasingha on dtd.28.06.2022 wherein the villagers have stated that, the appellant is staying at village Kuthurla since last 30 to 40 years and performing all the social functions like marriage, 21st day of new born child, last ritual of dead persons as per Christian traditions.”

(emphasis supplied)

5.Opposite party no.3 is directed to enquire and report by affidavit on the deceased relative of petitioner, regarding whom petitioner performed last ritual, whether the person was buried or cremated. The affidavit will be accepted on adjourned date, upon advance copy served.”

4. Ms. Pattanayak, learned advocate, Additional Government Advocate appears on behalf of State and submits, the affidavit has been filed as counter. Annexure B/3 in it is enquiry report of the Revenue Inspector, made on compliance with direction in said order dated 21st March, 2023. Text of the report is reproduced below.

“Sir,

As per your office letter no.1316/dated 24.03.2023, the undersigned visited village-Kuthurla, and conducted a field enquiry as to the rites and rituals performed by Bimalini Nag and her forefathers and cremation of the dead bodies of her father, in presence of the villagers, as mentioned below;

Geneology

Village : Kuthurla, Khata No.16,

Recorded tenant: Ujal Nag (Dead)

Son: Narendra Nag(dead)

Bimalini Nag, D/o. Narendra Nag(dead).

As per the statements of the villagers present during the course of field enquiry it is found that the dead body of Narendra Nag, father of Bimalini Nag, was buried as per the Christian rites and the petitioner’s family also performed the rituals as per the Christian community.

This is for your information and necessary action.”

(emphasis supplied)

5. Today Mr. Mishra submits, rejoinder has been filed. In it, signed statement

made by the villagers has been disclosed. They were unanimous in saying that burial of the dead is a custom followed by the scheduled caste 'Ganda', though belonging to Hindu society. So much so some villagers, who were said to have given statements to the Revenue Inspector have also given said statement in favour of his client.

6. He relies on view taken by a Division Bench of this Court in decision dated 6th July, 2012 in WP(C) no.526 of 2012 (Jyotirmayee Pradhan vs. State of Orissa and others), paragraphs 16 and 17. The paragraphs are reproduced below.

"16. Apart from the above, the matter can be looked at from a different angle. In the instant case, the ancestors of opp. party No.6 including her grand-father were Pano by caste and Hindu by religion. It is nobody's case that the grand-father of opp. party No.6 was Pano Christian. The case of the petitioner is that the father of opp. party no.6 is a converted Christian. It is also nobody's case that opp. party No.6 is a converted

Christian. Now the question arises if opp. party No.6 has not been converted to Christian religion, why she should be treated as Pano Christian merely because her father was a Pano Christian and why she should not be treated as Scheduled Caste Pano as her ancestors including her grandfather were Scheduled Caste Pano?

17. In the fact situation, we are of the considered view that if the grand-father of opp. party No.6 belonged to Scheduled Caste Pano and opp. party No.6 has not been converted to Christian religion, she cannot be held to be Pano Christian merely because her father converted from Pano to Christian religion. In any event, in view of the categorical finding of the State Level Scrutiny Committee, which is a fact finding authority, we are of the view that opp. party No.6 is a Scheduled Caste Pano and Hindu by religion and she is not a Pano Christian."

(emphasis supplied)

He submits, facts were similar in Jyotirmayee Pradhan (supra). View taken was, if the grandfather belonged to scheduled caste 'Pano' and the grand-daughter had not been converted to Christian religion, she cannot be held to be Pano Christian merely because her father converted to Christian religion. He submits, impugned order be set aside and quashed to give relief to his client, who has been suffering the allegation of having obtained fake caste certificate.

7. Ms. Pattanayak submits, Jyotirmayee Pradhan (supra) is not applicable because there was no finding of fact in the judgment, regarding when father of opposite party no.6 in the writ petition became Christian.

8. In Jyotirmayee Pradhan (supra) the Division Bench did not interfere with challenged final order passed by the State Level Scrutiny Committee, which said that the allegation against opposite party no.6, of having obtained fake caste certificate, was false. Therefore, opposite party no.6, Hindu daughter of a converted Christian was viewed to be a Hindu irrespective of the fact that her

father had converted to Christianity. Submission made by Ms. Pattanayak is accepted that, since there was no finding of fact in Jyotirmayee Pradhan (supra), regarding when the father converted, it cannot be presumed that father of opposite party no.6 therein had converted prior to her being born. In the circumstances, also considering paragraphs 16 and 17 were in addition to finding by the Division Bench to not interfere with the final order, said view by said paragraphs is not applicable to the facts and circumstances at hand.

9. On perusal of the writ petition it is found that there was omission of petitioner to have asserted that her father was Hindu or that her grand-father was not Christian. In this context it would be sufficient to reproduce ground 'J' from the petition.

"J. For that it has been already observed by this Hon'ble Court in similar matters, that merely because the petitioner's grandfather has converted from the caste Ganda to Ganda Christian, the petitioner cannot be held to be Ganda Christian merely because her grandfather converted from the caste Ganda to Ganda Christian."

(emphasis supplied)

It is clear from above that petitioner did not dispute that her grandfather was Christian. As aforesaid, there was omission to assert petitioner's father was Hindu. It follows that petitioner was born into a Christian household. In Jyotirmayee Pradhan (supra), the grandfather was Hindu. The father had converted and the judgment does not say when. In the circumstances, and in view of clarity expressed by impugned order, Court does not find reason to interfere.

10. The writ petition is found to be without merit and it is dismissed.

.....