
(2022) 01 CHH CK 0068
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 266 Of 2022

I. Lakra

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Citation : (2022) 01 CHH CK 0068

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Avit Lakra, Avinash Singh

Final Decision : Dismissed

Judgement

1. The Petitioner, claiming himself to be a social worker and concerned responsible citizen of India having been worked for the upliftment of the tribals, has filed this writ petition seeking cancellation of order impugned dated 31/07/1994 (Annexure P/2) by which respondent No. 3 was appointed on the post of Jail Superintendent by the erstwhile State of Madhya Pradesh. Petitioner has further sought relief that respondent authorities be directed to recover the Government monetary benefits taken by respondent No. 3 from the date of his appointment till this date and the respondent authorities be further directed to conduct departmental enquiry and take disciplinary action against respondent No. 6.

2. The aforesaid reliefs have been sought by the petitioner stating inter alia that though respondent No. 3 has obtained caste certificate dated 13/04/1987 (Annexure P/4) claiming that he belongs to Scheduled Tribe category, but he does not actually belong to Scheduled Tribe category and without scrutinizing the domicile certificate as well as his educational certificates,

respondent No. 3 has been appointed by the erstwhile State of Madhya Pradesh on 31/07/1994 by simply relying upon his caste certificate (Annexure P/4). It has further been stated that even the names of respondent No. 3 as well as that of his father's are quite differently endorsed in various certificates and the petitioner has made complaints to various authorities, but that has not been taken cognizance of.

3. Ms. Avit Lakra, learned counsel for the petitioner, would submit that since respondent No. 3 does not belong to Scheduled Tribes though caste certificate dated 13/04/1987 (Annexure P/4) has been issued in his favour, his appointment is liable to be set aside. She would also submit that petitioner has made several complaints against respondent No. 3 before various authorities but those have not been taken cognizance of, as such, appropriate action be taken against him.

4. Per contra, Mr. Avinash Singh, learned State counsel, on advance copy, would submit that petitioner has no locus standi to question the appointment of respondent No. 3 and even if it is held that petitioner is seeking writ of quo warranto, then also the caste certificate of respondent No. 3 dated 13/04/1987 (Annexure P/4) has not been questioned by the petitioner, therefore, it is still valid in light of the decision rendered by the Supreme Court in the matter of Bharati Reddy v. State of Karnataka and Others (2018) 6 SCC 162, as such, the instant writ petition deserves to be dismissed at admission stage reserving liberty in favour of petitioner to approach the jurisdictional caste verification committee for redressal of his grievance.

5. I have heard learned counsel for the parties on the question of admission, considered their rival submissions made herein[^]above and went through the records with utmost circumspection.

6. It is not in dispute that respondent No. 3 has been issued caste certificate dated 13/04/1987 (Annexure P/4) belonging to Scheduled Tribe against which petitioner has also made complaints to various authorities, but the question is, even if this writ petition is treated as writ of quo warranto, would issuance of writ of quo warranto be appropriate in light of the decision rendered by the Supreme Court in the matter of Bharati Reddy (supra) ?

7. Their Lordships of Supreme Court have reiterated the principle of issuance of writ of quo warranto in the matter of Bharati Reddy (supra) and have held in paragraphs 23 and 24 as under :[^]?

23. In this backdrop, the controversy will have to be analysed so as to determine whether the High Court was justified in issuing a writ of quo warranto in such a situation. Interfering in exercise of writ jurisdiction is limited to judicial review of the decision-making process and not of the decision itself. In this case, the final decision regarding the validity of income and caste certificate issued to the appellant has been advisedly kept open, thereby the same, in law and in fact, is still valid and in force. There is statutory presumption that such caste certificate shall be valid until it is cancelled by the competent authority. However, the only logic that can be deduced from the contemplation done by the learned Single Judge and the Division Bench of the High Court, is that the process followed by Respondent 5 for issuing the stated certificate to the appellant is replete with serious doubt, and therefore, is prima facie fraudulent.

24. In other words, the existence of caste certificate or for that matter the fact that it has been so issued by Respondent 5, is not doubted or in dispute.

It is not a case of the appellant relying on a non-existing or officially non-issued caste certificate. Thus, enquiry will have to be made out about the circumstances warranting issuance of stated certificate in a tearing hurry by Respondent 5, allegedly to favour the appellant. The other aspect is about the discrepancies in the two affidavits submitted by the appellant and including the suppression and non-disclosure of her truthful financial information.

8. Reverting to the facts of the present case in light of the aforesaid principle of law laid down by their Lordships of the Supreme Court, it is quite vivid that the main dispute raised by the petitioner is qua caste of respondent No. 3 for which caste certificate has been issued in his favour way back on 13/04/1987 (Annexure P/4) that he belongs to Scheduled Tribe category. In the matter of Bharati Reddy (supra), their Lordships have clearly held that once the caste certificate has been issued by competent authority and it is still valid and in force then there is a statutory presumption that such caste certificate shall be valid until it is cancelled by the competent authority and until and unless the factum of validity of the caste certificate is pending before the Caste Verification Committee, it has to be presumed that the said caste certificate is still valid and in force. In that view of the matter, since the caste certificate dated 13/04/1987 (Annexure P/4) issued in favour of

respondent No. 3 is said to be valid on the own showing of the petitioner, it cannot be held that a writ of quo warranto can be issued removing respondent No. 3 from the post which he is holding at present and no case is made out for issuance of notice to respondent No. 6 for want of pleading and supporting documents as such.

9. However, in *Bharati Reddy (supra)*, their Lordships of the Supreme Court have directed the jurisdictional Caste Scrutiny Committee to decide the

matter on its own merits in accordance with law by observing in paragraphs 42 and 43 as under :Â?

â??42. In a matter of this nature, the High Court, having kept open the issue regarding the validity of the income and caste certificate to be decided

by the jurisdictional Caste Verification Committee and finding no legal basis to declare the certificate as void ab initio or choosing to do so, ought to

have instead directed the Caste Verification Committee to expedite the enquiry and conclude the same in a timeÂ bound manner. The course adopted

by the High Court has only prolonged the consideration of that issue by the competent authority and embroiled the parties in avoidable proceedings.

43. Accordingly, we allow this appeal and set aside the decisions of the learned Single Judge and the Division Bench of the High Court which are

impugned in the present appeal. We, however, dispose of the writ petition filed by Respondents 6 to 9 being Writ Petition No. 106417 of 2016 only by

directing the Caste Verification Committee to expedite the enquiry regarding the validity of the income and caste certificate issued to the appellant by

Respondent 5 and conclude the same preferably within two months and also intimate its final decision to the appellant within the same time. Needless

to observe that the Caste Scrutiny Committee will decide the matter on its own merit and without being influenced whatsoever by any observations

made in the impugned judgments but in accordance with law. Besides, it shall deal with every contention raised before it by recording tangible

reasons.â??

10. Accordingly, petitioner is at liberty to raise the dispute of validity of respondent No. 3's caste certificate before the jurisdictional Caste Verification

Committee, if not already raised, in accordance with law.

11. The instant writ petition deserves to be and is accordingly dismissed in limine, however with the aforesaid liberty reserved in favour of the

petitioner, leaving the parties to bear their own cost(s).