
(2023) 02 OHC CK 0149
In the Orissa High Court
Case No : Writ Petition (C) No.26631 Of 2013

Jakub Barik

APPELLANT

Vs

State Of Orissa And Others

RESPONDENT

Date of Decision : 20-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0149

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : D. K. Mohapatra, S. Pattanayak, P. K. Parhi, J. Nayak

Final Decision : Disposed Of

Judgement

Arindam Sinha

1. Mr. Mohapatra, learned advocate appears on behalf of petitioner. He submits, his client while practising Hindu religion obtained cast certificate in year, 1987. He, thereafter, converted to Christianity in year, 1994. By impugned final order dated 26th November, 2013, there was finding that his client was 'Christian' and not 'Ganda' under Scheduled Caste category, as claimed by him because as established by law, caste status or more particularly the status of Scheduled Tribe/Scheduled Caste is acquired by birth only. He submits, his client was by birth Hindu, born into Scheduled Caste 'Ganda'. In year, 1994 his client converted to Christianity.

2. He demonstrates from the witness statements relied upon in impugned final order, all witness statements purporting to allege that his client was Christian at the time he applied for and obtained the caste certificate or that he was born Christian are un-signed statements. His client's wife, father-in-law and mother-in-law also gave statements but those were signed. In those statements they did not say his client was born Christian. He also refers to certified copy of holding no.62 in mouza-Jhinkermal that there is record of his father against the holding as belonging to caste 'Ganda'. The extract is from RoR bearing dates 27th July,

1976 and 1st April, 1977. Refereeing to his client's high school certificate he demonstrates that his client was born on 15th September, 1966 and, therefore, cannot be said to be born Christian.

3. Ms. Pattanayak, learned advocate, Additional Government Advocate appears on behalf of State. Mr. Parhi, learned advocate, Deputy Solicitor General along with Mr. Nayak, learned advocate, Central Government Counsel appear on behalf of Union of India.

4. On query from Court Mr. Mohapatra submits, his client's mother is still alive. He submits further, she will come to Court and depose, if so directed.

5. State has liberty to file additional affidavit to the counter, in event it has anything to say about the certified copy of RoR of years, 1976-77 stating father of petitioner as having caste 'Ganda'. The affidavit will be accepted on adjourned date, upon advance copies served to petitioner and Union of India.

6. List on 13th March, 2023.

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