
(2018) 04 CHH CK 0029
In the Chhattisgarh High Court
Case No : WPS No. 5480 of 2012

Ku. Mungeshree

APPELLANT

Vs

State Of Chhattisgarh And Ors.

RESPONDENT

Date of Decision : 04-04-2018

Acts Referred:

Citation : (2018) 04 CHH CK 0029

Hon'ble Judges : P. SAM KOSHY, J

Bench : Single Bench

Advocate : Sudeep Agrawal, A.S.Kachhawaha

Final Decision : Disposed of

Judgement

1. The present Writ Petition was initially filed challenging the order of suspension dated 01/12/2012. Subsequently, the petitioner was also issued with a chargesheet on 22/01/2013 and by way of amendment, the chargesheet also is under challenge in the present Writ Petition and this Court had granted the interim protection to the petitioner vide order dated 13/02/2013 which is still in operation.

2. Pending the present Writ Petition, the order of suspension has since been revoked by the department on 24/12/2013 and as such the main relief of the petitioner challenging the order of suspension stands redressed.

3. The only issue now left to be consider by this Court is whether the chargesheet â?" Annexure-P/9 dated 22/01/2013 is proper, legal and justified or not?

4. The contention of the counsel for the petitioner is that, the chargesheet â?" Annexure-P/9 has been issued by the Collector, Jashpur where the charge against the petitioner is only to the extent that, the caste certificate has

been obtained by playing fraud by the petitioner in as much as sufficient documents were not produced before the competent authority for issuance of the caste certificate. He further submits that, this chargesheet which has been raised by the State at the behest of the Collector is not sustainable for the reason that, the Collector is not the competent authority to verify the genuineness of the caste certificate or the caste status of the petitioner and the same can be enquired only by the high level caste scrutiny committee constituted by the State Government. He further submits that the legal position also stand settled in this regard right from the landmark judgment of the Hon'ble Supreme Court in the case of Kumari Madhuri Patil & Anr. v. Addl. Commissioner, Tribal Development & Ors. [1994 6 SCC 241] and all the subsequent judicial pronouncements in this field.

5. He further submits that pursuant to the judgment and directions given by the Supreme Court in the case of Madhuri Patil (Supra), the State Government had also constituted the high level caste scrutiny committee for the State of Chhattisgarh and which is also functional and therefore if at all if any enquiry had to be conducted, it ought to had been either referred by the State Government to the committee or the committee suo-moto could have initiated the action. Thus the chargesheet on both these grounds is not sustainable and prayed for setting aside of the same.

6. Lastly it was contended by the counsel for the petitioner that now in the year 2013, the State Government has again enacted a law which is known as The Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 which also empowers only the high power High Power Certification Scrutiny Committee to be the competent forum which could decide the veracity of certificate or the genuineness of caste status of a particular employee.

7. This legal position so also the statutory position has not been disputed by the learned Additional Advocate General appearing for State. The only objection which the State counsel has raised is that these objections could also be raised by the petitioner before the enquiry officer who would look into the aspect and decide the same.

8. Having heard the contention of the State counsel this Court is of the opinion that when the authority is issuance of the chargesheet itself has been questioned before the Writ Court and in the light of the judicial pronouncement

starting from the judgment of Madhuri Patil (Supra) and all subsequent decisions and also in the light of the enactment of 2013 by State of Chhattisgarh, the said competence could not have been decided by the enquiry officer. Therefore it cannot be left to be considered by the enquiry officer.

9. It is by now well settled that the competent forum to decide the veracity of caste certificate so also the caste status of an employee is vested only with the high power caste scrutiny committee who could have decide the allegation which have been levelled against the petitioner as per the chargesheet â?" Annexure-P/9.

10. In view of the aforesaid legal position this Court is not inclined to remit the matter back to the enquiry officer and holds that the chargesheet itself is not sustainable and the same deserve to be and is accordingly set aside/quashed.

11. However it would be open for the respondents if they so doubt the caste status so also the caste certificate of the petitioner, they can get the matter enquired from the high power caste scrutiny committee constituted by the State Government.

12. The Writ Petition accordingly stands allowed and disposed off.