
(2023) 02 OHC CK 0102
In the Orissa High Court
Case No : Writ Appeal No. 59 Of 2023

Laxmikanta Mallick

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 14-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0102

Hon'ble Judges : Dr. S. Muralidhar, CJ; M.S.Raman, J

Bench : Division Bench

Advocate : Pradipta Kumar Mohanty, Debakanta Mohanty

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, CJ.

1. The challenge in the present writ appeal is to an order dated 10th January, 2023 passed by the learned Single Judge dismissing W.P.(C) No. 12863 of 2009 filed by the Appellant, whereby he had questioned an order passed on 29th July, 2009 of the State Level Scrutiny Committee (SLSC) on the issue of the Appellant having obtained a fake Caste Certificate in terms of the allegations available with the District Vigilance Cell (DVC), Kandhamal for inquiry.

2. The background facts are that admittedly, the Appellant belongs to the 'PANA' caste i.e., Scheduled Caste (SC) and is a Hindu. In the year 1991, he collected a Caste Certificate from the Tahasildar, Daringibadi which showed him to belong to the 'PANA' caste. On the basis of that certificate, the Appellant joined as Siskhya Karmi in the Daringibadi Block and his services were regularized in 1994. It appears that subsequently in 2006, he applied to the Tahasildar, Darinigibadi to be issued a Certificate showing him to be a Scheduled Tribe (ST) i.e., KANDHA.

3. The report of the Investigating Officer (IO) who conducted the inquiry revealed that in the gradation list of the District Inspector of Schools, Balliguda, the Appellant's name was at Serial No.403 under the S.T. Category. He had

signed the list thereby accepting the correctness of that entry. The SLSC issued a notice to the Petitioner to which he filed a reply received by the SLSC on 11th February, 2009. On 21st April, 2009 a hearing was conducted by the SLSC in which the Appellant appeared. He stated before the SLSC that he had nothing more to state than what he had already stated in his reply. Interestingly, in the reply to the Show Cause Notice (SCN) while he admitted to getting a caste certificate in the SC category, the Petitioner sought to contend that the subsequent certificate showing him to be KANDHA "might be a manipulation by impersonating me to get undue advantage by any outsider".

4. The above contention of the Appellant was disbelieved by the SLSC for the simple reason that the report of the Investigating Officer showed that the gradation list of DI of Schools, Baliguda showed the Appellant's name at Serial No. 403 under the ST Category and he had in fact agreed and signed in the said list thereby getting an accelerated promotion. The inquiries made by the I.O. also revealed that the genealogy and the land records of the Appellant showed that his ancestors were also PANA by caste. Therefore, there was no question of the Appellant seeking to project himself as a KANDHA. The SLSC correctly observed that "the involvement of the then Tahasildar Sri Basudev Sahu O.A.S. in procuring such fake caste certificate to the alleged person cannot be ruled out."

5. Mr. P.K. Mohanty, learned Senior Counsel for the Appellant contended that the Appellant never made use of the aforementioned certificate obtained in 2006 which showed him to be an ST i.e., KANDHA and even the most recent gradation list of 2022 shows him as belonging to the SC Category. In other words, he urged that the Appellant had never taken advantage of the subsequent caste certificate obtained by him in 2006 and, therefore, the impugned order of the SLSC to initiate criminal proceedings against him for obtaining a fake caste certificate should be set aside.

6. The Appellant being a Government servant has to be held to high standards of conduct. Having obtained a certificate showing him to be SC belonging to the PANA caste way back in 1991 and joining as Siskhya Karmi on that basis, there was no justification whatsoever for the Appellant, in 2006 to again apply for another caste certificate showing him to be an ST. This very act of applying for and obtaining another caste certificate, wrongly projecting himself to be an ST for sufficient to attract the provisions in the applicable rules governing misconduct of Government Servants. It is entirely besides the point whether the Appellant made use of such caste certificate or sought reversal of any benefit he may have obtained on the basis of such caste certificate after the fraud came to light. It is an undeniable fact evidenced by the records that in the gradation list of the D.I. of Schools, Balliguda as noticed by the I.O., his name has shown enlisted at Serial No. 403 in ST category and he had in fact signed that list in acceptance of its correctness. It is futile for the Appellant to contend therefore that he did not make use of the fake caste certificate obtained by him.

7. Mr. Mohanty, then placed reliance on a judgment dated 17th October, 2022

passed by this Court in Writ Appeal No.334 of 2017 (Michael Nayak v. State of Odisha and others). There the SLSC held the said Appellant belonged to 'Pana Christian' community and accordingly held that the caste certificate issued in his favour declaring him to be an SC was obtained fraudulently. This Court found that there was no factual basis for the SLSC to come to such conclusion and that its order "throughout proceeds on conjectures and surmises to come to such a conclusion."

8. In the present case, however, the SLSC appears to have followed the due process of law in calling for an inquiry report, furnishing the Appellant the copy of that enquiry report, issuing him an SCN allowing him an opportunity to reply to the SCN and then having heard him. In other words, there was complete compliance with the principles of natural justice. This is what was envisaged by the judgment of the Supreme Court in *Kumari Madhuri Patil v. Addl. Commissioner, Tribal Development* AIR 1995 SC 94.

9. Consequently, the Court is not persuaded that the decision in *Michael Nayak* (supra) applies to the facts of the present case. Further, the Court is also not persuaded to accept the plea of Mr. Mohanty that the matter should be sent back to the SLSC for a fresh hearing and a fresh inquiry. The Court is satisfied that there has been a compliance with all the requirements of the principles of natural justice in the present case and, therefore, the matter does not need to be sent back to the SLSC.

10. The Court is not satisfied that any error has been committed by the learned Single Judge in dismissing the Appellant's writ petition.

11. The writ appeal is accordingly dismissed.

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