
(2010) 08 CHH CK 0006
In the Chhattisgarh High Court
Case No : Writ Petition No. 1504 of 2002

Mahi Pal Prasad Biyar

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Citation : (2011) 2 MPJR 135

Hon'ble Judges : S.K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.K. Agnihotri, J.—The petitioner by this petition, seeks a writ impugning the notice dated 8/7/2002 (Annexure P-1), order dated 26/6/2002 (Annexure P-2), 7/6/2002 (Annexure P-3) and 30/8/2000 (Annexure P-6).

2. The brief facts in nutshell are that, the petitioner claims to be a member of Biyar, schedule tribe community. The petitioner was issued a caste certificate on 9/7/1985 by the Tahsildar Janjgir, District Bilaspur. The said certificate was sent for verification to the Schedule Caste Schedule Tribe High Power Caste Scrutiny Committee (in short "the Committee"). The Committee relying on report dated 30/8/2000 (Annexure P - 6) held that the petitioner did not belong to Schedule Tribe.

3. The leaned counsel appearing for the petitioner submits that the impugned order dated 7/6/2002 (Annexure P-3) is contrary to the directions made by the Supreme Court in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, , Smt. Kochar further submits that the Committee was constituted on 14/2/2001, pursuant to the direction made in Kumari Patil (supra). Thus, there was no occasion to have a vigilance cell and get the enquiry done by the vigilance cell as suggested and directed by the Supreme Court. Relying on a report submitted by Sub Divisional Officer (Police), the Committee has proceeded and held that the petitioner did not belong to schedule

tribe community.

4. Shri Bhaduri, learned counsel for the State submits that though the inspection was not done by vigilance cell as contemplated under sub-para 5 of para 13 in Kumari Madhuri Patil (supra). However, the same was done by the S.D.O. (Police) in the same manner by going to the particular place and making all enquiries as required. Thus, the report of S.D.O. (Police) cannot be thrown away when the opportunity of hearing was afforded to the petitioner to respond to the said report. However, if it is not done in accordance with the guidelines as observed in para 13 (5) by the Supreme Court in Kumari Madhuri Patil (supra), the State authorities may be granted liberty to make inspection once again through vigilance cell and after affording an opportunity of hearing to the petitioner, pass an appropriate order in accordance with law.

5. Having regard to the facts situation of the case, when the Committee has relied on the report, which was obtained prior to the date of constitution of the Committee; without going into the merits of the case, the order is quashed for non-compliance of the guidelines as laid down by the Supreme Court in Kumari Madhuri Patil (supra).

6. However, having regard to the facts situation of the case, liberty is reserved to the Committee to examine the matter afresh for verification of social status of the petitioner in accordance with the guidelines laid down by the Supreme Court in Kumari Madhuri Patil (supra) and further explained in Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and another, .

7. For the reasons mentioned hereinabove the impugned order dated 7/ 6/2002 (Annexure P-3) and all consequential orders are quashed.

8. In the result, the writ petition is allowed with the above stated liberty. No order as to costs.