

(2016) 08 P&H CK 0327

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15458 of 2016.

Mohit Kumar - Petitioner @HASH State of Haryana and Others

Date of Decision : 02-08-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 226

Citation : (2017) 1 SCT 230

Hon'ble Judges : Rameshwar Singh Malik, J.

Bench : Single Bench

Advocate : Anil Kshetarpal, Sr. Advocate with Piyush Aggarwal, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Rameshwar Singh Malik, J. (Oral)—Present writ petition is directed against the order dated 25.7.2016 (Annexure P-23), whereby Scheduled Caste Certificate issued in favour of the petitioner vide Annexure P-11 dated 29.8.2006, was cancelled.

2. Learned senior counsel for the petitioner refers to the judgment of the Hon'ble Supreme Court in Kumari Madhuri Patil and another v. Addl. Commissioner, Tribal Development and others, (1994) 6 SCC 241, to contend that the impugned order has been passed without following the procedure laid down by the Hon'ble Supreme Court. He also places reliance on certificate dated 20.5.2016 (Annexure P-8), issued by the Principal of Government Senior Secondary School, Mustafabad, District Yamuna Nagar, to the effect that petitioner belongs to Julaha community which is a Scheduled Caste. He prays for setting aside the impugned order, by allowing the present petition.

3. Having heard learned senior counsel for the petitioner, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since the impugned order has been passed after due consideration of the matter and on the basis of a self contained enquiry report dated 24.6.2016 (Annexure P-20), it has not been found suffering from any patent illegality or perversity because of which the same deserves to be

upheld. The writ petition is misconceived and liable to be dismissed for the following more than one reasons.

4. It is a matter of record and not in dispute that after receiving a complaint against the petitioner that he does not belong to Scheduled Caste, the Deputy Commissioner, Yamuna Nagar, constituted a committee for conducting an enquiry into the matter. During its deliberations on the issue, the committee headed by Sub Divisional Officer (civil), Jagadhri, found that at the time of admission in the school, petitioner was not recorded belonging to Scheduled Caste or Backward Caste.

5. Other family members of the petitioner, including his brothers and sisters, were got admitted in the school showing them belonging to Khurana caste, recorded at page Nos. 47, 49, 51 and 53 of the enquiry file. Again, it has been recorded in the enquiry report that Sh. Narain Dass, father of the petitioner, had four brothers and all of them have shown themselves to be belonging to Khatri Hindu caste, at the time of admission in the school, as recorded at page 27 of the enquiry file. In such a situation, statements made by some residents of the village in favour of the petitioner that he was belonging to Scheduled Caste (Julaha) cannot be accepted, because same runs counter to the official record.

6. Further, it is the father of the petitioner and his uncles who got their children admitted in the school claiming them to be belonging to Arora Khatri caste, which is admittedly not a Scheduled Caste in the State of Haryana. Having referred to the above said official record, this Court feels no hesitation to conclude that the competent authority committed no error of law, while passing the impugned order Annexure P-23 and the same deserves to be upheld.

7. It is a neither pleaded nor argued case on behalf of the petitioner that he was not granted opportunity of being heard at every relevant point of time. Petitioner was associated during the course of enquiry. All the relevant record and every aspect of the matter were duly considered by the enquiry committee, before furnishing its self contained enquiry report dated 24.6.2016 (Annexure P-20). Thereafter, petitioner was issued a show cause notice. After granting due opportunity to the petitioner to defend himself, the impugned order was passed by the competent authority.

8. In this view of the matter, it can be safely concluded that respondent authorities have also ensured strict compliance of the principles of natural justice, before passing the impugned order, hence the same deserves to be upheld for this reason also. Once the petitioner, as a matter of fact, never belonged to the Scheduled Caste, as per the detailed enquiry report, issuance of Certificate of Scheduled Caste Annexure P-11 in favour of the petitioner would be of no consequence. Said certificate might have been issued in favour of the petitioner proceeding on an erroneous approach and it will not operate as estoppel against the respondent authorities.

9. Once, on the basis of a complaint, enquiry was conducted by a committee

headed by a senior officer of the level of Sub Divisional Officer (civil), who has come to a definite conclusion that petitioner was not belonging to Scheduled Caste, competent authority was well within its jurisdiction, while passing the impugned order and the same deserves to be upheld for this reason, as well.

10. So far as directions issued by the Hon"ble Supreme Court are concerned, none of them have been found to have been violated. As noticed herein above, petitioner was associated in the enquiry proceedings and even thereafter, show cause notice was issued to the petitioner before passing the impugned order. In fact, a bare reading of the cogent findings recorded by the enquiry committee would show that same go to the root of the cause.

11. During the course of hearing, learned senior counsel for the petitioner could not substantiate any of his arguments referring to any relevant material available on the case file and rightly so, it being a matter of record. No patent illegality was shown that might have been committed, while passing the impugned order, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Section 226/227 of the Constitution of India.

No other argument was raised.

12. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the enquiry report as well as the impugned order passed thereon have been found based on true facts of the case, same deserve to be upheld. Present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

13. Resultantly, with the above said observations made, instant writ petition stands dismissed, however, with no orders as to costs.