

(2022) 11 OHC CK 0147
In the Orissa High Court
Case No : Writ Petition (C) No.11115 Of 2009

Rajkrishna Bhoi

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 17-11-2022

Acts Referred:

Citation : (2022) 11 OHC CK 0147

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : P.K. Nayak, A.K. Nanda

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

M.C. Nos.9059 of 2009, 10561 of 2009, 19556 of 2015 &5723 of 2011

1. Mr. Nayak, learned advocate appears on behalf of petitioner and submits, impugned is, inter alia, final order dated 30th June, 2009 made by the State Level Scrutiny Committee concluding that petitioner does not belong to Kandha (Scheduled Tribe).

2. He submits, his client has two grounds of challenge. Firstly, he was not heard and secondly, directions/guidelines by judgment of the Supreme Court in Madhuri Patil v. Addl. Commissioner, Tribal Development reported in AIR 1995 SC 94 regarding both notice and enquiry were not followed. He relies on procedural guidelines (5) and (6) in paragraph-12.

3. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State and relies on impugned final order to submit, it was duly made upon giving opportunity to petitioner and contains basis and reasons. There should not be interference.

4. Guideline (5) in Madhuri Patil (supra) is regarding issuance of social status

certificate. Case at hand is, the certificate already issued was declared fake. Hence, the enquiry made by Investigating Officer (I.O.) pursuant to the State Level Scrutiny Committee entering into the allegation of issuance of fake certificate, is different than one made for the purpose of issuance of the certificate. In the circumstances, it is guideline (6) that appears to be relevant for petitioner.

5. Guideline (6) as in the judgment is reproduced below.

"6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be 'not genuine' or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof."

6. It appears from impugned final order that petitioner was noticed on the State Level Scrutiny Committee taking cognizance of the allegation, of him having had obtained fake caste certificate. Petitioner submitted show cause reply and requested personal hearing before the committee. However, he did not appear before the committee so no statement from him was recorded. In the premises, aforesaid guideline (6) was applied by causing issuance of letter dated 23rd May, 2009, for publicity in concerned village on issuance of public notice by beat of drum. Court is satisfied that this was done since, one objection was received. Hence, said guideline regarding opportunity of hearing to petitioner to be given, stood satisfied.

7. The committee found from the report that petitioner is neither natural born nor adopted son of Niranjana Bhoi, the person, who he claimed was his father. He is son of third wife of said Niranjana Bhoi, conceived after his death.

8. Mr. Nayak submits further on drawing attention to annexures 4 and 5 that his client was noticed to appear before the committee on 14th May, 2009 but the

notice reached his client on 14th May, 2009 itself, in Bolangir. Appearance was to be in Bhubaneswar. It was impossible for him to attend. The statements have been made in paragraph-7 of the writ petition. No counter has been filed.

9. Regarding contention of petitioner that he was prevented from appearing before the committee on late receipt of the notice, query was made for disclosed material in the writ petition, to show that petitioner is son of Niranjana Bhoi. Nothing has been disclosed. In the circumstances, grievance of being prevented from appearing and availing personal hearing cannot stand since petitioner has disclosed impugned final order, which clearly says he is not the son of Niranjana Bhoi and in the writ petition challenging said order, no material to show otherwise has been disclosed.

10. In view of aforesaid Court does not find any illegality nor material irregularity in the making of impugned final order.

11. The writ petition does not disclose any merit. It is dismissed. Interim order stands vacated and all the applications are accordingly disposed of.

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