

(2007) 10 PAT CK 0023

In the Patna High Court

Case No : Letter Patent Appeal No. 771 of 2006

Ram Awatar Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-10-2007

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (2007) 4 PLJR 703

Hon'ble Judges : Narayan Roy, J;Madhavendra Saran, J

Bench : Division Bench

Advocate : Ganesh Prasad Singh, for the Appellant; Satish Kr. Sinha, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties. This Letters Patent Appeal is directed against the order dated 11.9.2006 passed by a learned Single Judge of this court in C.W.J.C. No. 13499 of 2004 whereby and whereunder the writ application was dismissed holding that the appointment of the writ petitioners on the basis of caste certificates produced by them showing them as Scheduled Tribes candidates was ab initio void.

2. The writ petitioners appellants were appointed as Assistant Teachers on the basis of the caste certificates produced by them showing them in Scheduled Tribes category. In course of continuance of the writ petitioners in service, it was reported to the authorities that the writ petitioners belonged to Kahar caste which was not included in the schedule of Scheduled Tribes as per the Presidential notification. On the basis of the complaint, a show cause notice was issued to the writ petitioners and an enquiry was held. The enquiry report was submitted by the Circle Officer saying that the writ petitioners are not the members of the Scheduled Tribes rather they belong to Kahar caste. The authorities on the basis of the show cause filed by the writ petitioners and in view of the enquiry report, passed an order of dismissal of the writ petitioners from services.

3. The learned Single Judge of this court, on appreciation of facts and materials brought on record, held that the writ petitioners were not the members of the Scheduled Tribes as they are not Kherwar by caste. It further held that the writ petitioners are Kahar by caste which are not members of the Scheduled Tribes and, therefore, their appointment was ab initio void.

4. Learned counsel for the appellants submitted that the appellants belong to Kherwar caste and therefore, they had obtained caste certificate showing them as members of Scheduled Tribes. It is further submitted by learned counsel that no proper enquiry was held by the authorities after applying the principles of natural justice and provision of Article 311, of the Constitution. Mr. Singh, learned counsel for the appellants with reference to the show cause filed on behalf of the writ petitioners, tried to impress upon the court that Kahar and Kherwar were one and the same and therefore, the writ petitioners were rightly given caste certificates showing them as members of Scheduled Tribes.

5. It appears from the materials on record that a formal departmental proceeding was initiated giving a show cause notice to the writ petitioners which they replied and thereafter the matter was inquired into wherein it was reported that the writ petitioners belong to Kahar caste. It does not appear to be a case where no enquiry whatsoever was held and the writ petitioners were dismissed from services without applying the principles of natural justice.

6. In the instant case, we find that enquiry was held and requirements of natural justice were also complied with. The caste certificate so produced by them were again verified and on enquiry, it was found that they belonged to Kahar caste and they were not the members of Scheduled Tribes. By no document, however, it was proved by the writ petitioners appellants in this court that they, in fact, were the members of Scheduled Tribes nor Presidential notifications were produced before the court showing Kahars as members of Scheduled Tribes.

7. The findings in this background recorded by the learned Single Judge, therefore, cannot be said to be without any basis.

8. In our considered view, passing an order of dismissal against the writ petitioners appellants, in no way, warrants interference for not holding a formal departmental proceeding as required by service rules or Article 311 of the Constitution.

9. For the reasons aforementioned, therefore, we find no merit in this appeal.

10. It is accordingly dismissed. No costs.

M. Saran, J.

11. I agree.