
(2005) 08 PAT CK 0052
In the Patna High Court
Case No : C.W.J.C. No. 6607 of 2004

Sanjay Kumar Gupta

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-08-2005

Acts Referred:

Citation : (2006) 3 BLJR 2156a : (2005) 4 PLJR 145

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Ashutosh Ranjan Pandey, for the Appellant; Kishore Kumar Mandal, GP 5 and P.K. Singh, JC to GP 5, for the Respondent

Judgement

Barin Ghosh, J.—After hearing the counsel for the parties on 9th August, 2005 I had dictated an order in the open Court and thereby proposed to dispose of the writ petition. I found that a Scheduled Tribe certificate was issued in favour of the petitioner showing that the petitioner belongs to "Goad" community, and after the petitioner obtained such certificate and when genuineness of that certificate was sought to be verified, apart from verifying whether the same had been issued by an appropriate authority, an attempt was made to enquire into the contents of the said certificate, and that too, on the basis of a report purported to have been furnished by the Sahayak to the Gram Panchayat within whose jurisdiction the petitioner resides, and that when the petitioner brought to the notice of the appropriate authority that the Gram Panchayat itself has resolved that the petitioner belongs to Goad community the same was not taken into account and accordingly the certificate issued in favour of the petitioner was cancelled.

2. I felt that the same was not proper for there was no dispute that a competent authority i.e. Sub-Divisional Officer had issued the certificate and it was not pointed out that the certificate was issued by the Sub-Divisional Officer mala fide. In such event, I felt that it would be appropriate to remit the matter back to the Sub-Divisional Officer once again with a direction upon him to reconsider the

issue, and if he finds that the petitioner does not belong to "Goad" community to report the matter to the District Magistrate with a direction upon the District Magistrate to initiate appropriate departmental proceedings against that Sub-Divisional Officer, who had issued the original certificate showing that the petitioner belongs to "Goad" community. However, while correcting the order, it transpired to me that while the petitioner claimed to be belonging to "Goad" community and a certificate was also issued in favour of the petitioner recognizing that he belongs to "Goad" community, it was incorrectly shown in the certificate that the petitioner belongs to Scheduled Tribe community. That was an error of records.

3. A community known as "Gond" community existing in the State of Bihar belongs to Scheduled Tribe. An attempt was made by the State of Bihar to equate "Goad" and "Gonr" communities with that of "Gond" community. The Central Government rejected the said proposal of the State Government.

4. The decision of the State Government as well as the Central Government in regard to that issue was the subject matter of challenge in a public interest litigation before a Division Bench of this Court, and the Division Bench of this Court held that only "Gond" community belongs to Scheduled Tribe community and neither "Goad" community nor "Gonr" community belongs to Scheduled Tribe community. Even then the State Government did not issue appropriate notification. As a result, the matter was once again brought before this Court and this Court directed issuance of an appropriate notification, and thereupon only the State Government issued a notification and declared that it is only the "Gond" community which belongs to Scheduled Tribe community.

5. In such view of the matter, it appears to me that the original caste certificate issued in favour of the petitioner contained a gross error showing the petitioner as Scheduled Tribe although recognizing him to be belonging to "Goad" community. The entire piece of evidence collected by the petitioner shows that he belongs to "Goad" community and not to "Gond" community. In such view of the matter, there is no other option but to cancel that certificate which was issued in favour of the petitioner, and accordingly, the same has been correctly done.

6. However, the matter is remitted back to the Sub-Divisional Officer concerned with a direction upon him to consider whether the petitioner belongs to "Goad" community, as claimed by the petitioner or Kanu community, as is being claimed by the respondents inasmuch as "Goad" community belongs to Extremely Backward Class community but Kanu community belongs to Backward Class community.

7. Let fresh look into the matter be taken as quickly as possible after giving appropriate opportunity of hearing to the petitioner and appropriate certificate be issued in favour of the petitioner within a period of 2 weeks from the date of service of a copy of this order upon the Sub-Divisional Officer concerned.

The writ petition is accordingly disposed of.