
(2002) 09 PAT CK 0123
In the Patna High Court
Case No : C.W.J.C. No. 5834 of 2002

Shree K. Bhagwan Gond @ Shree Bhagwan Prasad	APPELLANT
Vs	
State and Others	RESPONDENT

Date of Decision : 25-09-2002

Acts Referred:

Citation : (2002) 4 PLJR 433

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Aftab Alam, J.—Heard Mr. Neel Kamal, counsel appearing in support of this writ petition and Mr. P.K. Shahi, S.C.C.G. representing the Union of India. Also present is Mr. R.P. Bhagat, Govt. Pleader No. IV for the State.

2. In an earlier decision on similar facts in Akhilesh Kumar Vs. State of Bihar and Others, , this Court had the occasion to make the following observation:

Altogether different communities, occupying vastly different positions in the statutory scheme of reservation in Government employment, in some cases have names which are not only phonetically similar but also have a very minor difference of spelling. Lured by far more attractive reservation prospects and taking advantage of the similarity in the names of the two communities, it some times happens that individual and families actually belonging to one community would try to assume the identity of the other group.

3. The controversy before this Court is once again whether the Petitioner is a member of Gond tribe, which is admittedly of the scheduled tribes, or whether he belongs to Gaur caste. The Block Development Officer has issued a certificate (Annexure 29), according to which, the Petitioner belongs to the Gaur caste which, in this State, is recognized as one of the extremely backward castes. The Petitioner disputes the certificate issued by the Block Dev. Officer. He claims himself to be a Gond, belonging to one of the scheduled tribes. It is further

stated on his behalf that the impugned certificate issued by the Block Dev. Officer (Annexure 29) was contrary to some earlier certificates issued in his favour in which he was described as a Gond, belonging to the scheduled tribes.

4. The circumstances under which the earlier certificates were issued are duly explained in the counter affidavit filed on behalf of Respondent No. 8 and according to the statements made in that counter affidavit, the earlier certificates relied upon by the Petitioner stand automatically cancelled in view of the later circular issued by the State Government on that issue.

5. However, it is interesting to note the Petitioner's contention in this writ petition. In the earlier decision in Akhilesh Kumar, this Court noted in para 2 of the judgment that the admitted position was that Gond (also spelled sometimes as Gonr) was a tribal group, being one of the scheduled tribes. In that case it was also admitted that Gaur also spelled sometime as Gond was the name of a caste which was recognised as backward class.

6. In the case in hand the Petitioner tries to dispute what was the admitted position in Akhileshwar Kumar. The Petitioner takes a far more radical stand and contends that there is no caste or sub caste by the names of Gaur or Gonr. According to him, ethnically, there is only one group which is a tribal group named as Gond and Gaur and Gonr are only the misspellings and ,the corrupted names of the tribal group Gond.

7. In support of this contention, reliance is placed on a report of the Tribal Research Institute (T.R.I.), Ranchi a copy of which is at Annexure 12. The Petitioner also relies upon a judgment and decree passed by the court of Addl. Munsif (8th), Balia in Case No. 186 of 1981 and a judgment of the Allahabad High Court, dated 27.01.1994 in Civil Misc. Writ Petition No. 36567 of 1992.

8. From the materials on record, it appears that in this State earlier persons under the names Gaur or Gonr were also taken as members of the scheduled tribe and certificates were issued to them to that effect. It was under those circumstances that certificates were earlier issued in favour of the Petitioner also describing him as a member of the scheduled tribe. Later on, the State Government reviewed the entire matter and came to the conclusion that only Gonds were a tribal group forming part of the scheduled tribes and Gaurs and Gonrs in the districts of Saran and Rohtas were castes forming part of the extremely backward class. The State Government accordingly recalled the earlier letter No. 25, dated 25.2.1991 vide subsequent letter No. 35, dated 5.3.1997 and letter No. 66, dated 27.4.2000.

9. In the counter affidavit filed by Respondent No. 8, it is stated that a certificate that one belongs to the scheduled tribes could not be issued only on the basis that the title of the claimant was Gond or Kharwar. It is further stated "that most of the people living in Buxar district who use Gond or Gaur title are of Halwai caste which comes in O.B.C."

10. In the counter affidavit filed on behalf of the Union of India, the contention raised by the Petitioner, placing reliance on the report of the T.R.I. is refuted with for greater elaboration. In para 8 of the counter affidavit, it is stated as follows:

8. That in reply to the averments made in paragraph-1 of the writ application, it is stated that the contention the Petitioner that Gour, Gonr and Gond are one and the same community, as per enquiry report of the Tribal Research Institute (T.R.I.), Ranchi is not correct. The report of TRI, Ranchi was examined in the Ministry in consultation with the Registrar General of India (R(sic)) the repository of knowledge and date on Caste and Tribes of the country (sic) it was found that "Gond" is a non any tribe, classified on linguistic grounds as Dravidian belonging to the Central PRO Vines but also found in the tribunal States of Chota Nagpur. Gonr on the other hand is identified as a Sub-Clause of Kandus, a section of Biyahut and Kharidaha Kalwars; a stone, cutter are maker of stone plates and household utensils. Drawing attention to the clause fiction in Census, Crooke observed the "in the Census Returns under the nature Gond two quite distinct classes of people seem to be mixed up-the true Gond of the Central Indian hill country and the Gonr of the Eastern Districts of these provinces, who are usually classed (sic) the fishing tribes of Kahar and Ma(sic) and are domestic servants, stone-cutters or grain parchers. In the detailed Census Returns the sections of these two distinct tribes are inextricably mixed up together and defy analysis." Crooke describes Gaur as "A Sect of Rajputs who are supposed to take their name from the Kingdom of Gauda, in Bengal. According to Sir. H.M. Elliot, they fall into three sub divisions, the Bhat Gaur, Brahman Gaur, and Chamar Gaur, names derived from some intercourse with Bhats, Brahmans, and Chamars. To these are sometimes added the Katheriya Gaur, descended from Katheri, or Carpenter. But it may be doubted if the Katheriya are really Gaurs." Risely mention about one Gaura, a sub caste of Kayasths and Sonars, a section of Bahans and a sect of Hajputs in Behar. Risely also cites separately another caste Gaura or Gariya, a territorial division of the Pancha Gaur Brahmans, who live in the country of the Lower Ganges, deriving its name from Gaura, the ancient capital of the Hindu dynasty of the Pal Rajas. From ethnographic information provided supra it may be seen that the three ethnic groups in question, viz., Gond, Gour and Gaur, seems to be quite distinct from each other as none of the authors quoted above portrays any relationship between Gond on the one hand and Gonr or Gaur on the other. The distinction between Gond and Gonr or Gaur has also been established on the basis of a spot investigation conducted by the office of the RGI in connection with the 1991 Census.

11. In view of the materials produced before this Court, I find it quite impossible to accept the Petitioner's contention that there is no caste or sub-caste under the names Gaur or Gonr and the words Gaur and Gonr pre only misspellings and the corrupted form of the name Gond which is a tribal group being one of the scheduled tribes.

12. I, thus, find no merit in this writ petition. It is dismissed.