

(2015) 12 PAT CK 0047

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14719 of 2011

Shweta Rani Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-12-2015

Acts Referred:

Citation : (2015) 12 PAT CK 0047

Hon'ble Judges : Kishore Kumar Mandal, J.

Bench : Single Bench

Advocate : Madhusudan Kumar, for the Appellant; Himanshu Kumar Akela, A.C. to G.A.-1, for the Respondent

Final Decision : Dismissed

Judgement

Kishore Kumar Mandal, J.—Heard both sides.

2. Challenge in this writ petition is to the order dated 30.06.2011 passed by the Scrutiny Committee constituted at the government level to consider caste status claim and grant of the caste certificate.

3. Earlier, the petitioner filed a writ petition being C.W.J.C. No. 14416 of 2010 challenging the order dated 8.7.2010 passed by the respondent District Magistrate (respondent No. 3) granting her caste status of "Kahar" caste (Backward Class) and not "Kharwar" (Scheduled Tribe). After considering the case of the parties, a Bench of this Court vide order dated 17.5.2011 (Annexure-8) set aside the order dated 8.7.2010 passed by the District Magistrate, Kaimur and remanded the case to the State Government for consideration of her claim by the Scrutiny Committee for determination of her caste status. The order was passed in the light of the order passed by the Apex Court in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, as modified in Director of Tribal Welfare Vs. Laveti Giri and others, . The claim was considered by the Scrutiny Committee constituted at the State level and rejected by the impugned order on appreciation of diverse

materials placed by both parties. She was held a member of the "Kahar" caste and not "Kharwar" caste which has the status of Scheduled Tribe. In doing so, the Committee referred to and relied on several evidence including the revenue records, the sale deeds emanating from the family members of the petitioner and the Rohtas District Gazette published on 17.4.1989.

4. It has been submitted on behalf of the petitioner that several members of the petitioner's family have earlier been granted the caste certificate showing him/them as member of Kharwar caste. The respondents have acted arbitrarily in refusing the same status to the petitioner. In course of hearing of previous writ petition, the State Government produced an order issued by the government cancelling the Scheduled Tribe status of the entire family. Having found that this aspect of the matter was not considered by the District Magistrate and also the fact that now in the light of command of the Hon'ble Apex Court, the Scrutiny Committee at the State level is empowered to ascertain the caste status of an applicant and grant the caste certificate, the matter was remanded to the Scrutiny Committee for consideration. The order passed by the Scrutiny Committee demonstrates that opportunity of hearing was afforded to the petitioner. Documents placed by the petitioner as well as the State were evaluated in detail to come to the conclusion that the petitioner did not belong to "Kharwar" caste. She was a member of "Kahar" caste. She was, therefore, not entitled to the status of Scheduled Tribe community. This is essentially a matter of fact to be determined on the basis of appreciation of diverse materials/evidence. Whether any member of the family of the petitioner was earlier granted the status of Kharwar shall not have much consequence since the competent authority in such matter is the Scrutiny Committee at the State level constituted by the State Government in the light of the order passed by the Hon'ble Apex Court.

5. Diverse contentions have been made by the petitioner in support of the application. However, the petitioner has not pointed out any legal lacunae in the process adopted by the Scrutiny Committee or any other fundamental legal flaw in ascertaining her caste status. Indisputably, such declaration of caste status cannot be considered by this Court upon appreciation of materials/evidence which are essentially questions of fact. As noted above, the Scrutiny Committee offered opportunity of hearing to the petitioner and also to place documents which were duly considered by the Scrutiny Committee and on weighing the diverse materials placed before it, held that the petitioner was entitled to the caste status of Kahar and not Kharwar (Scheduled Tribe).

6. Under these circumstances, this Court does not feel inclined to interfere with the order by invocation of extraordinary and discretionary writ jurisdiction.

7. The application is dismissed.