

(2023) 08 OHC CK 0083
In the Orissa High Court
Case No : Writ Petition (C) No. 18103 Of 2018

Suraj Kumar Pradhan

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 16-08-2023

Acts Referred:

Citation : (2023) 08 OHC CK 0083

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : Trilochan Barik, Suman Pattanayak

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Barik, learned advocate appears on behalf of petitioner and submits, impugned is final order dated 27th March, 2018 pronouncing his client's caste certificate to be fake.

2. He draws attention to annexure-1 being RMC no.356/83 dated 1st July, 1983. It is his client's caste certificate certifying that he belongs to 'Kandha' tribe. This caste certificate was issued on basis of entry in the Record of Rights (RoR) showing his father to belong to the tribe. Hence, on strength of the certificate his client obtained employment and thereafter applied and got certificates issued in respect of his children as well.

3. He submits, impugned order is without basis. It is no matter that his father and sisters have married into the Pano community. Fact is that he belongs to the tribe and there is no evidence to the contrary as would appear from impugned order. He seeks interference.

4. Ms. Pattanayak, learned advocate, Additional Government Advocate appears on behalf of State and submits, impugned final order does not warrant interference. It was based on inquiry made by the Investigating Officer through

Vigilance Cell, reported on letter dated 22nd February, 2009. Inquiry revealed the villagers had deposed, petitioner belongs to Pano community. He subsequently converted to Christianity and impugned order says that thereafter too he obtained another caste certificate, wherein he managed to have himself described as belonging to the tribe. She draws attention to reasoning given in impugned order. Reason no.V is reproduced below.

"V. As regards to social cultural features, it is ascertained that the alleged is Pano by caste & Christian by religion. As surname Pradhan generally pertains to Kandha community, the alleged & his family members carrying surname of Pradhan claims to be member of ST community. They observed birth & Death rituals, customs of marriage ceremonies as per the guidelines of Christian community. Moreover most of the family members of the alleged have married in Pano community even if there is no regular intermarriage between Kandha & Pano. The alleged and & his family members are well known as Pano in the area even if they carry surname Pradhan. They have not been accepted by local Kui Samaj as Kandha. However, the alleged Suraj Kumar Pradhan & his family members do not have any features of Adivasi community."

(emphasis supplied)

5. On query from Court it could not be pointed out that the SLSC had come to find on inquiry and verification that entry in the RoR is incorrect. It thus remains a rebuttable presumption. Relied upon rebuttal appears to have been witness statements of villagers, who said that petitioner and his family having had married into the Pano community, are themselves Pano because inter caste marriage between Kandha and Pano does not happen.

6. Perused enquiry report dated 10th January, 2009 made by Chief Inspector of Police, Sadar Phulbani. It appears therefrom, certain villagers bearing name 'Pradhan' had said Suraj Pradhan is Pano by caste and he was converted to Christianity since the time of his father. He and his sisters including his father had married into Pano families. Documents examined in the enquiry show, inter alia, verification of RoR in G. Udayagiri Tahsil to reveal that khata no.141 of village-Ganjuguda stands recorded in name of Bholanath Pradhan, petitioner's father, of caste 'Kandha'. Other persons names recorded in the RoR and verified are those petitioner's sisters had married. The report also expresses socio cultural features. It says that petitioner and his family members are carrying surname 'Pradhan' since long. As they had been converted to Christianity, they do not have assertion of community identity, either of Pano Samaj or Kandha Samaj. While Kandhas look down on Pano community, the latter looks up to the former. Hence, conclusion that petitioner is Pano by caste and Christian by religion.

7. Petitioner does not deny he was converted. Mention of his father's caste in the RoR is documentary evidence. On basis thereof the caste certificate was issued as long back as on 1st July, 1983. This is sought to be rebutted by oral

statements made by persons in year, 2009, who had been questioned by the officer. It follows that since the report did not specifically discredit the entry in the RoR, impugned order also did not. In the circumstances, question before the Court is whether impugned order is based on relevant evidence? The documentary evidence is being sought to be discredited by statements made by villagers, 16 years later. The oral statements, by themselves, made to an enquiring police officer, cannot be sustained as good basis to disregard record of petitioner's father belonging to scheduled tribe Kandha. The inquiry report also says that petitioner's family have been carrying the name 'Pradhan', since long. Surname 'Pradhan' generally pertains to 'Kandha' community. It goes on to further say that there is divide between the two communities. Petitioner's family carrying name 'Pradhan' since long, thereby gives rise to further presumption of correctness in the record of his father's community identity in the RoR. Impugned order appears not to be based on relevant evidence and therefore, is perverse.

8. Impugned order is set aside and quashed. The writ petition is disposed of.

.....