

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6463 of 2011

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1. Gharshobhit Kumar @ Gharsobhit Kumar Son Of Late Suresh Kumar
Resident Of Village- Gaighat, Post Office- Assaparari, P.S. Simri, District-
Buxar

.... Petitioner/s

Versus

1. The Union Of India, Through Inspector General Of Central Industrial Security Force, Ministry Of Home Affairs, W.S. Hqrs., Mumbai
2. Inspcetor General (Ws) Cisf, Mumbai
3. The Deputy Inspector General, Central Industrial Security Force, Ministry Of Home Affairs, Dae, Zonal Hqrs Ecii Post, Hyderabad
4. The Commandant, Central Industrial Security Force, (Ministry Of Home Affairs) Unit-Ucil, Jadugoda, District- East Champaran
5. The District Magistrate, Bhojpur At Ara
6. The District Magistrate, Bhojpur, Buxar
7. The District Welfare Officer, Bhojpur, Ara
8. The Block Development Officer, Simri, District- Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Mahasweta Chatterjee, Adv.
For the Respondent/s : Mr. Gautam Bose Aag8
Mr. Ajay Kumar, AC to AAG-8.
For the Union of India : Mr. A.K.Sharan, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 16-01-2015 Heard learned counsel for the petitioner and the respondents.

In the preset case, petitioner was appointed as constable in CISF in the year 1994 on the strength of caste certificate claiming himself to be belonging to Scheduled Caste.

It appears that the petitioner has obtained caste certificate dated 15th November 1991 from the Office of B.D.O., Simari, Buxar and also obtained the caste certificate from the



Office of District Welfare Officer, Buxar, Ara where he was declared to be member of Scheduled Tribe, sub-caste "Gond". He had obtained the certificate on the strength of a Circular dated 15th March 1978 where it has been provided that if a male of higher caste enters into marriage with the female of Scheduled Caste, the off-spring will be treated to be belonging to member of Scheduled Caste.

A complaint was filed about his caste status which led to initiation of a departmental proceeding. In the departmental proceeding, petitioner participated and the Enquiry Officer while holding the enquiry has called a report from the District Magistrate, Ara and the District Magistrate, vide letter No. 30 dated 12th January 2007 has informed that the certificates were issued from the Office of the BDO as well as the District Welfare Officer but both the caste certificates are wrong, as the father of petitioner is man of higher caste and cannot be treated to be a member of scheduled Tribe. Basically on the strength of aforesaid letter of the District Magistrate, petitioner was held to be member of upper caste and has been dismissed on the ground of wrong submission of caste certificate and thereby defrauded the respondents in getting appointed.

An appeal was filed which was also dismissed vide



order dated 4.8.2005(Annexure-7) and the revision also met with the same fate vide order dated 14th September 2007(Annexure-6) . The claim of petitioner, is there is no allegation that he had produced a bogus certificate, as the District Magistrate himself has found issuance of caste certificates from the two Offices but held that the petitioner belongs to general category.

Submission has been made that if a male of general caste enters into marriage with a lady of ST, the off-spring will be treated to be belonging to ST. Reliance has been placed on the Circular dated 3rd March 1978 (Annexure-9) which itself makes it very clear that it is only confined to the members of the scheduled caste and not for the scheduled tribe. There is no dispute on fact that the father of the petitioner was belonging to Brahmin caste whereas his mother was member of ST. The caste of the child will be caste of his father and not of mother as under the Hindu Law after the marriage of a girl every thing including *Gotra* changes and it follows that off-spring will get the caste of his father and not of mother.

The Hon'ble Supreme Court has examined this issue and settled it in the case of *Meera Kanwaria v. Sunita and others* (2006)1 SCC 344, (2012)3 SCC 400 (*Rameshbhai Dabhai Naia v. State of Gujrat and others* and (1996)3 SCC 545 (*Valsamma Paul*

(MPs v. Cochin University and others).

In this view of the matter, this Court is of the view that the petitioner has obtained the certificate on the basis of wrong declaration of caste and as such, this Court does not find any error in the order passed by the authority concerned.

This petition is, accordingly, dismissed.

(Shivaji Pandey, J)

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