

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 880 of 2014

Rajesh Nandeshwar S/o Shri Dukalu Ram Nandeshwar Aged About 40 Years Caste Mahar, R/o Sanjay Nagar, Dongargarh, PS & Tah Dongargarh, Civil & Revenue Distt Rajnandgaon, CG

---- Petitioner

Versus

1. State Of Chhattisgarh Through its Secretary, Govt. Of Chhattisgarh, Department Of Revenue, Mahanadi Bhawan, Naya Mantralaya, New Raipur, Civil & Revenue Distt Raipur, CG
2. The Commissioner Raipur Division, Distt Raipur, CG
3. The Collector, District Rajnandgaon, CG
4. The S.D.O. (Revenue) Dongargarh, Tah Dongargarh, Dist Rajnandgaon, CG
5. The Commissioner, Tribal Development & Member Secretary, High Level Caste Scrutiny Committee, Satpuda Bhawan, Second Floor, Bhopal, MP
6. The Superintendent Of Police, Balaghat Distt Balaghat, MP
7. Vikrant Singh S/o Lt Nihal Singh Aged About 32 Years R/o Vikrant Bhawan Jarhabhata, Bilaspur, Distt Bilaspur, CG
8. Smt. Vyula Soni D/o Lt Nihal Singh Aged About 40 Years R/o Vikrant Bhawan Jarhabhata, Bilaspur, Distt Bilaspur, CG
9. Ms. Vaila Singh D/o Lt Nihal Singh Aged About 33 Years R/o Vikrant Bhawan Jarhabhata, Bilaspur, Distt Bilaspur, CG
10. Bramhaswaroop Bhatiya S/o Mangal Sen Aged About 44 Years R/o Bazar Chowk, Village Bortalab, Tah Dongargarh, Distt Rajnandgaon, CG
11. Smt. Jyoti Bhatiya, W/o Shri Bramhaswaroop Bhatiya, aged about 42 years R/o Bazar Chowk, Village Bortalab, Tah Dongargarh, Distt Rajnandgaon, CG
12. Ashwani Sahu S/o Shri Ankalu Ram Sahu Aged About 41 Years R/o Village Kurubhat, Tah. Dongargarh, Distt Rajnandgaon, CG

---- Respondents

For Petitioner	:	Shri Atnu Ghosh, Advocate
For Respondents No.1 to 6/State	:	Shri Neeraj Shrama, Dy. Govt. Advocate
For Respondents No. 7 to 9	:	Shri M.K. Bhaduri and Shri Nalin Soni, Advocate

S.B.Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/12/2015

With the consent of learned counsel appearing for the parties, the matter is heard finally.

1. This petition is directed against order dated 11.4.2014 passed by the Commissioner by which the Commissioner, setting aside the order passed by the Addl. Collector on 3.4.2013, has remanded the matter.
2. Short submission of learned counsel for the petitioner is that once the Caste Scrutiny Committee of the State of Madhya Pradesh closed the matter on 27.8.2011 (Annexure P-11), the Addl. Collector was left with no option but to decide the matter on its own merits on the basis of oral and documentary evidence available before it. Learned counsel for the petitioner submits that the Addl. Collector, after scrutiny of complete material on record, came to the conclusion that the respondents failed to establish that they belong to *gond* tribe and therefore, no order in their favour could be passed under Section 170-B of the Land Revenue Code.
3. On the other hand, learned counsel for respondents No. 7 to 9 submits that an order was passed by this Court on 14.12.2009 in W.P.227 No.7252/2009 disposing off the petition and issuing direction that Sub Divisional Officer shall first get caste certificate of the respondents verified from the Caste Scrutiny Committee by sending it for its verification and only thereafter, shall proceed to pass the order in the matter in accordance with law. Late on, the order was corrected/modified vide order dated 23rd October, 2010 in Review Petition No.6/2010. Therefore, the Commissioner was fully justified in holding that the Addl. Collector ought not to have decided the matter without there being any report of the Caste Scrutiny Committee which alone is competent under the law to determine the caste status.

4. The pleadings and the documents on record show that though this Court had passed order on 14.12.2009 and 23rd October, 2010, the State of Chhattisgarh forwarded the case with regard to decision of caste status of Late Nihal Singh on the ground that he was resident of District -Balaghat which is now within the territory of State of Madhya Pradesh. When the matter was referred to the Caste Scrutiny Committee of Madhya Pradesh, that Committee vide its communication dated 27.8.2011 addressed to SDO (R), Dongargarh, District- Rajnandgaon informing that as Nihal Singh died in the year 2006, it is not possible to decide the caste status and therefore the case is closed.
5. Faced with the aforesaid situation, the Addl. Collector was left with no option but to decide the matter on the basis of material available before it. Obviously, it was not within the province of authority of the Collector to either issue a direction to the Caste Scrutiny Committee of the State of Chhattisgarh or Caste Scrutiny Committee of the State of Madhya Pradesh to re-open the inquiry and determine the caste status of Late Nihar Singh and his successors.

Learned counsel for the parties admitted that the communication dated 27.8.2011 of the Caste Scrutiny Committee of the State of Madhya Pradesh has not been assailed by filing any petition either before this Court or in the High Court of Madhya Pradesh.

6. In view of the aforesaid circumstances, the order of the Addl. Collector cannot be faulted on the ground that he proceeded to decide the matter without there being any report of Caste Scrutiny Committee.

Learned counsel for the parties have not placed before this Court any material to show that at a subsequent point of time, after the communication dated 27.8.2011 (Annexure P-11) of the Caste Scrutiny Committee of Madhya Pradesh, any petition was filed before this Court for issuing fresh direction to Caste Scrutiny Committee of State of Chhattisgarh to take up the matter and decide the matter here only.

7. In view of the above consideration, the Commissioner does not appear to be justified in setting aside the order of the Addl. Collector on the ground that report of Caste Scrutiny Committee was not available before it. The Commissioner ought to

have decided the matter on its own merits instead of remanding the case back to the Collector.

8. As an upshot of the above discussions, the order of the Commissioner cannot be sustained in law and, therefore, set aside. The matter is remanded to the Commissioner to decide the matter on its own merits. The parties before the Commissioner shall be at liberty to assail or support the order of the Addl. Collector on such grounds as may be available to them under the law.
9. With the aforesaid observation/direction, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge