

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1651 of 2015

1. Smt. Anjali Guna W/o Yashwant Ram Guna, Aged About 48 Years Occupation Service, Posted As Headmistress, Primary School, Bhandaripara, Kanker, Tahsil And District Kanker, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Scheduled Caste And Scheduled Tribe Welfare, Mantralaya, New Raipur, P. S. Rakhi, District Raipur, (Chhattisgarh)
2. The President, Chhattisgarh State Scheduled Tribe Commission, 61, Jalvihar Colony, Raipur, (Chhattisgarh)
3. The Collector, Kanker, District North Bastar Kanker, (Chhattisgarh)
4. The Sub Divisional Officer (Revenue), Kanker, District North Bastar, Kanker, (Chhattisgarh)
5. The Assistant Commissioner, Tribal Development, Kanker, District North Bastar Kanker, (Chhattisgarh)
6. The Superintendent Of Police, District North Bastar Kanker, (Chhattisgarh)

---- Respondents

For Petitioner.

: Shri D. N. Prajapati, Advocate.

Order On Board

15/09/2015

Heard.

- (1) The petitioner is aggrieved by recommendation made by the State Scheduled Tribe Commission to the Superintendent of Police alleging that the petitioner and some more people are wrongly getting benefits though they do not belong to State Scheduled Category.
- (2) Learned counsel for the petitioner submits that the Commission has sent recommendation to the Police Authority to take action against the petitioner without affording any opportunity of hearing. It is submitted that in preliminary enquiry, no notice was issued to the petitioner to explain and satisfy that the petitioner belongs to Scheduled Tribe category, therefore, in these circumstances, the petitioner has approached before this Court by filing

this petition.

(3) Counsel for the State submits that at present the Commission has only recommended the police authority to take action against the petitioner, therefore, this petition is premature at this stage.

(4) It appears that the Commission has informed to the Police Authority that the petitioner and some more people are falsely claiming the benefits of Scheduled Tribe, to which, they do not belong. The Commission has not determined the status of the petitioner, as such, only recommendation has been made. Matter is to be enquired by the police authority.

(5) The Supreme Court Judgment **Kumari Madhuri Patil and another, Vs. Additional Commissioner, Tribal Development and others, AIR 1995 SC 94** has well settled the legal position that the dispute regarding status of caste can be decided only by the Caste Scrutiny Committee. At present, the Commission has only sent a communication to the police authority and no offence has been registered against the petitioner. Therefore, in these circumstances, at this stage, I am not inclined to keep this matter pending.

(6) This petition, at this stage, is disposed off reserving liberty to the petitioner to avail the appropriate remedy as may be available to him under the law if any offence is registered against the petitioner pursuant to the recommendation made by the Commission.

Sd/-

Manindra Mohan Shrivastava

Judge

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