

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPC No. 391 of 2012**

1. Bihram Korwa S/o Dodo Ram Korwa, Caste – Korwa, aged about 55 years, R/o Village – Pandarsilli, Tah – Manora, Distt. - Jashpur (CG)
2. Bifnnf Ram S/o Budaraa Ram, Caste - Korwa, R/o Village - Pandarsilli, Tahsil - Manora, Distt. Jaspur C.G.
3. Baleshwar Ram S/o Bewanta Ram , Caste - Korwa, R/o Village - Pandarsilli, Tahsil - Manora, Distt. Jaspur C.G.
4. Gudwal Ram S/o Jaruna Ram R/o Village - Gidhabastala, Tahsil- Manora, Distt. Jaspur C.G.
5. Sukhram S/o Chamaru Das, Caste - Korwa, R/o Village -Buchukchhar, Tahsil- Manora, Distt - Jashpru C.G.

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through – Secretary – Aadim Jaati Tatha Anusuchit Jaati Vikas Vibhag, D.K.S.Bhawan, Raipur (CG)
2. Secretary, General Administration Department, State of Chhattisgarh, D.K.S. Bhawan, Raipur (CG)
3. Commissioner Aadim Jaati Tatha Anusuchit Jaati Vikas Vibhag, DKS Bhawan, Raipur C.G.
4. Collector Jashpur Distt. Jashpur C.G.
5. Pahadi Korwa Evam Birhor Vikas Abhikaran, Through President, Jashpur Distt. Jashpur C.G.
6. Program Officer, Pahadi Korwa Evam Birhor Vikas Abhikaran, Jashpur, Distt. Jashpur C.G.
7. Janapad Panchayat, Manora Through - Chief Executive Officer, Distt. - Jaspur C.G.
8. Tahsildar, Bagicha, Distt. Jashpur C.G.

**---- Respondents**

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Shri B.P. Rao, counsel for the petitioner/s.

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**27/04/2016**

With the consent of the parties, the matter is heard finally.

The petitioners, through this petition, have claimed that they should also be extended the same benefit which are being extended to the community of 'Pahadi Korwas'.

2. It is the case of the petitioners that the petitioners are Korwa tribes and have been recognized as scheduled tribe under the Constitution as "Korwa has been included in the Constitution (Scheduled Tribes) Order, 1950.

3. Grievance of the petitioners is that the State has identified persons belonging to the tribal community of 'Korwa' who are residing in hilly areas and some special benefits are being provided to them by granting them status of primitive tribes. Those benefits should also be provided to the petitioners, as according to the petitioners, 'Korwa Tribe' and 'Pahadi Korwas' are one and the same.

4. Learned State counsel submits that in the scheduled tribe list promulgated under the Constitution, 'Korwa tribe' has been included and 'Pahadi Korwa' has not been included under the order. The State has identified the community of 'Pahadi Korwa' who are residing in remote hilly areas and by identifying this community as 'Pahadi Korwa', certain special benefits and measures have been provided for their socio economic development.

5. It is well settled that by judicial process, a new sub community or class cannot be added in the existing entries of the scheduled caste and scheduled tribe order issued under the Constitution. This legal position has been well settled by the Supreme Court in the case of **State of Maharashtra v. Milind and others, 2001 (1) SCC 4.**

6. It appears that the State has identified a tribe community as primitive tribe and named them as 'Pahadi Korwa' and extended certain benefits to bring them into main stream.

As far as the petitioners are concerned, nobody has disputed their status as scheduled tribe Korwa obviously because 'Korwa' is notified under the

Scheduled Tribe Order. However, to say that 'Pahadi Korwa' and 'Korwa' are one and the same and 'Pahadi Korwa' should also be treated as a part of 'Korwa tribe', in the absence of there being any stipulation in the list, is not permissible under the law. Therefore, the grievance that the benefits which are being extended to 'Pahadi Korwa' should also be extended to the petitioners, cannot be accepted.

8. Unless and until, in the scheduled tribe list, 'Pahadi Korwa' is also included, either under the same entry of 'Korwa' or under a different entry, so as to treat it as a sub-caste or class of 'Korwa', no such declaration can be given by this Court.

9. Consequently, 'Pahadi Korwa' and 'Korwa' cannot be treated as one and the same. Therefore, benefits which are being extended to 'Pahadi Korwas' cannot be claimed on parity by the petitioners.

It is a matter for consideration by the State authorities to carry out necessary survey, make proposal for inclusion of 'Pahadi Korwa' by way of legislation and not a matter where any direction can be issued by this Court.

10. The petition is accordingly dismissed.

**Sd/-**

**(Manindra Mohan Shrivastava)**  
**Judge**