

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1758 of 2016

- Ashish Kumar Wanjari S/o Shri Kishor Wanjari, Aged About 37 Years R/o Panchsheel Nagar, Charoda, Tahsil Patan, District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Scheduled Caste And Scheduled Tribe Welfare, Mahanadi Bhawan, New Raipur, Raipur Chhattisgarh
2. Collector, Durg, District Durg Chhattisgarh
3. Sub Divisional Officer, Sub Division Patan, District Durg Chhattisgarh

---- Respondent

For Petitioner	Ms. Shaileja Shukla, Advocate
For Respondent/State	Mr. UNS Deo, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

18/7/2016

1. Heard.
2. This petition under Article 226 of the Constitution of India is preferred seeking command to the respondents to consider the petitioner's application for issuance of permanent caste certificate without insisting on production of land records prior to the year 1950.
3. It is argued that the authorised agency for moving an application

for issuance of permanent caste certificate known as 'Choice Centre', is not accepting the petitioner's application for the reason that the petitioner has not submitted documents (education and property) for the period prior to 1950. It is further argued that the petitioner's grandfather's was working with the South Eastern Railway, Bilaspur from 09.05.1947 to 30.04.1985 as is apparent from the certificate -Annexure P/2, which was submitted with the application. In the said document, the petitioner's grandfather's caste is mentioned as "Hindu (*Mahar*)" . Similarly, the petitioner's father worked in the South Eastern Central Railway, Bilaspur from 28.01.1969 to 31.05.2006, therefore, it is fully established that the petitioner's forefathers were living in the State of Chhattigarh, therefore, insistence on production of land records prior to the year 1950 is illegal and arbitrary.

4. This Court in the matter of **Ramsajiwan Vs. State of Chhattisgarh and others (WPS No.6616 of 2008 decided on 19.08.2010)** placed reliance on its earlier decision in the matter of **Narendra Dehariya Vs. State of Chhattigarh and others (WPC No.5070 of 2007 and other connection petitions decided on 27.09.2007)** to hold thus in para 2 to 6.

"2. Grievance of the petitioner is that the respondent No.3 i.e. the Sub Divisional Officer, Manendragarh, has rejected the application of the petitioner for issuance of a permanent caste certificate on the ground that the petitioner has failed to produce land records prior to the year 1950, which is mandatory.

3. The caste certificates are issued on the basis of circulars, directions and guidelines issued by the Supreme Court in

Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others which has been followed by this Court in *Narendra Dehariya Vs. State of Chhattisgarh and others*.

4. The aforesaid issue came up into consideration before a Divisional Bench of this Court in *Narendra Dehariya (supra)* & other connected matters, wherein it was observed as under :

“Thereafter the Government has issued another order dated 27.6.2007 wherein definition of bonafide residents of Chhattisgarh has been defined and explained which includes (i) person belonging to the central services posted at Chhattisgarh, their spouses or children; (ii) all the employees of State of Chhattisgarh, their spouses or children; (iii) Persons appointed on Constitutional or Statutory posts by President of India, their spouses or children; (iv) Corporations, Agencies, Commissions Board's Officials/Officers/employees, their spouses or children. This Government order is to benefit the petitioners-students with respect to bonafide residents of Chhattisgarh.

We are of the considered opinion that once such persons have been recognized as residents of Chhattisgarh, then the same analogy shall apply for the purpose of the admission of children of the categories referred to herein-above are concerned, if their caste is included in the Presidential Order.”

5. The said order has neither been amended nor modified nor set aside by the superior court. The same remains as it is.

6. Having regard to the above stated observations and directions passed by this Court in *Narendra Dehariya (supra)* the respondent No.3 is directed to consider the case of the petitioner and pass appropriate order in accordance with law, without insisting on production of the land records prior to

the year 1950-, as land-records alone are not the requirement."

5. The present petitioner is in possession of service record of his grandfather, which is prior to 1950, therefore, insistence on production of land record prior to 1950 is not in accordance with the law laid down by this Court in the matter of *Ramsajiwan (supra)*.
6. Having regard to the evident facts' situation of the case as well as the observations and directions passed by this Court in *Narendra Dehariya (Supra)* and *Ramsajiwan (supra)*, the respondents are directed to accept the petitioner's application for issuance of permanent caste certificate and pass appropriate orders in accordance with law without insisting on production of land records prior to the year 1950, as land records alone are not the requirement.
7. The writ petition stands accordingly disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)

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