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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2068 of 2016

- Kanwal Sai S/o Shri Shiv Sai, Aged About 56 Years Caste Bhariya, R/o Gopalpur (Wrongly Mentioned Barbaspur), Tahsil Katgora, Civil And Revenue District Korba (Chhattisgarh)

---- Petitioner

Versus

1. Smt. Beena Kumari W/o Shri Anil Kumar, Aged About 40 Years Caste Tanwar, R/o Barbaspur, Tahsil Podi- Uproda, Civil & Revenue District Korba (Chhattisgarh)
2. The Sub Divisional Officer (Rev.) Katghora (Now Podi- Uproda) Tahsil Podi- Uproda, Civil & Revenue District Korba (Chhattisgarh)
3. The Additional Collector, Korba, Civil & Revenue District Korba (Chhattisgarh)
4. The Additional Commissioner, Bilaspur, Division Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh)

---- Respondent

And

WPC No. 2069 Of 2016

- Kanwal Sai S/o Shri Shiv Sai, Aged About 56 Years Caste Bhariya, R/o Gopalpur (Wrongly Mentioned Barbaspur), Tahsil Katgora, Civil And Revenue District Korba (Chhattisgarh)

---- Petitioner

Vs

1. Vijendra Pal Singh S/o Shri Budh Pal Singh, Aged About 45 Years Caste Tanwar
2. Narendra Pratap Singh, S/o Shri Budh Pal Singh, aged about 32 years, Caste Tanwar

Both are R/o Barbaspur, Tahsil Podi- Uproda, Civil & Revenue District Korba (Chhattisgarh)

3. The Sub Divisional Officer (Rev.) Katghora (Now Podi- Uproda)
Tahsil Podi- Uproda, Civil & Revenue District Korba
(Chhattisgarh)
4. The Additional Collector, Korba, Civil & Revenue District Korba
(Chhattisgarh)
5. The Additional Commissioner, Bilaspur, Division Bilaspur, Civil &
Revenue District Bilaspur (Chhattisgarh)

---- Respondent

And

WPC No. 2070 Of 2016

- Kanwal Sai S/o Shri Shiv Sai, Aged About 56 Years Caste
Bhariya, R/o Gopalpur (Wrongly Mentioned Barbaspur), Tahsil
Katghora, Civil And Revenue District Korba (Chhattisgarh)

---- Petitioner

Vs

1. Kaushlendra Pratap Singh S/o Shri Chitrapal Singh Tanwar Aged
About 42 Years (Wrongly Mentioned Kaushlendra Singh S/o Shri
Chitrapal), Caste Tanwar, R/o Barbaspur, Tahsil Podi- Uproda,
Civil & Revenue District Korba (Chhattisgarh)
2. The Sub Divisional Officer (Rev.) Katghora (Now Podi- Uproda)
Tahsil Podi- Uproda, Civil & Revenue District Korba
(Chhattisgarh)
3. The Additional Collector, Korba, Civil & Revenue District Korba
(Chhattisgarh)
4. The Additional Commissioner, Bilaspur, Division Bilaspur, Civil &
Revenue District Bilaspur (Chhattisgarh)

---- Respondent

And

WPC No. 2071 Of 2016

- Kanwal Sai S/o Shri Shiv Sai, Aged About 56 Years Caste
Bhariya, R/o Gopalpur (Wrongly Mentioned Barbaspur), Tahsil
Katghora, Civil & Revenue District Korba, (Chhattisgarh)

---- Petitioner

Vs

1. Smt. Beena Kumari W/o Shri Anil Kumar, Aged About 40 Years
Caste Tanwar
2. Smt. Savitri, W/o Shri Mineshwar Kumar Tanwar, Aged About 38
Years Caste Tanwar

Both are R/o Barbaspur, Tahsil Podi Uproda, Civil & Revenue
District Korba, (Chhattisgarh)

3. The Sub Divisional Officer (Revenue), Katghora (Now Podi
Uproda), Tahsil Podi Uproda, Civil & Revenue District Korba,
(Chhattisgarh)
4. The Additional Collector, Korba, Civil & Revenue District Korba,
(Chhattisgarh)
5. The Additional Commissioner, Bilaspur Division, Bilaspur, Civil &
Revenue District Bilaspur, (Chhattisgarh)

---- Respondent

And

WPC No. 2076 Of 2016

- Kanwal Sai S/o Shri Shiv Sai, Aged About 56 Years Caste
Bhariya, R/o Gopalpur (Wrongly Mentioned Barbaspur), Tahsil
Katghora, Civil & Revenue District Korba, (Chhattisgarh)

---- Petitioner

Vs

1. Govind Singh S/o Shri Jeevan Singh, Aged About 35 Years
Caste Tanwar
2. Ranvijay Pratap Singh S/o Shri Jeevan Singh, Aged About 26
Years (Wrongly Mentioned Ranvijay Singh, S/o Shri Pratap
Singh) Caste Tanwar

Both are R/o Barbaspur, Tahsil Podi- Uproda, Civil & Revenue
District Korba, (Chhattisgarh)

3. The Sub Divisional Officer (Rev.) Katghora (Now Podi- Uproda)
Tahsil Podi- Uproda, Civil & Revenue District Korba
(Chhattisgarh)
4. The Additional Collector, Korba, Civil & Revenue District Korba
(Chhattisgarh)

5. The Additional Commissioner, Bilaspur, Division Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh)

---- Respondent

For Petitioner	Shri P. M. Shriwas, Advocate
For Respondent-State	Shri Shashank Thakur, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

17/08/2016

1. All the writ petitions are being disposed of by this common order as they arise out of order dated 23rd May, 2016 passed by the Additional Commissioner, Bilaspur Division, Bilaspur.
2. For the purpose of disposal, reference is being made to the facts of WPC No.2076/2016.
3. The petitioner had purchased agricultural land admeasuring 3.18 Acre from one Jivan Singh, the predecessor in interest of the private respondents, on 10.04.1995. In an earlier proceeding under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (henceforth 'the Code, 1959'), the Sub Divisional Officer (Revenue) {henceforth 'the SDO' (R)}, Katghora held by its order dated 29.05.1998 that the petitioner belongs to Tribal Community, therefore, the provisions under Section 170-B are not applicable.

4. Another application was filed by the legal heirs of Vijay Singh in the year 2007-08 under Section 170-B of the Code, 1959, which was again rejected by the SDO (R), Katghora on 28.02.2009. The respondent Nos.1 & 2 thereafter preferred an appeal before the Additional Collector, Korba, wherein vide order dated 10.03.2010, their appeal was allowed and the order passed by the SDO (R), Katghora in favour of the petitioner was set aside. The Additional Commissioner, Bilaspur Division affirmed the order passed by the Additional Collector, Korba in the impugned order dated 23.05.2016.
5. The Additional Collector, Korba as well as the Additional Commissioner, Bilaspur Division held that the petitioner was granted repeated opportunity to get his Caste Certificate verified by the High Level Caste Scrutiny Committee, which he failed to do so, therefore, it is not established that the petitioner belongs to Bhariya Tribal Community.
6. It appears, there was dispute about the petitioner's caste status as to whether he belongs to Bhoriya Community, which is not a Scheduled Tribe Community or he belongs to Bhariya Community, which is included in the list of Scheduled Tribes Community.
7. In view of the above stated dispute about the petitioner's caste status and since admittedly the petitioner had not obtained any permission from the concerned Collector under Section 165 (6) of

the Code, 1959 before purchasing the land from tribal holder, the petitioner was required to get his Caste Certificate verified, in the absence of which it was not possible for the courts below to affirm the order passed by the SDO (R), Katghora.

8. In the considered opinion of this Court, the petitioner may still get his Caste Certificate verified and in the event, it is verified in his favour, he can maintain a fresh writ petition to assail the order passed by the Additional Commissioner, Bilaspur Division.
9. For the present, there is nothing to conclude that the petitioner belongs to the Scheduled Tribe Community, therefore, the writ petition is dismissed, subject however to the liberty as afore-stated.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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