

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 267 of 2016**

Chandra Kumar Barapatre S/o late A.R. Barapatre, Aged About 45 Years R/o Street No.6-B Plot No.107 Shanti Nagar Bhilai, Tahsil and District Durg (Chhattisgarh).

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh).
2. High Power Caste Scrutiny Committee, Through- Its President Cum-Secretary, Scheduled Caste And Scheduled Tribe Development Department, Tribal Research Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur (Chhattisgarh)
3. Union Of India, Through- The Director, Ministry Of Personnel, Public Grievances And Pensions, Department Of Personnel And Training, Secretariat, Vallabh Bhawan, New Delhi.

---- Respondents

For Appellant	:	Shri T.K. Tiwari, Advocate.
For Respondents/State	:	Shri Y.S. Thakur, Deputy Advocate General.
For Respondent No.3	:	Shri Ramakant Pandey, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Sanjay K. Agrawal, J.****Order on Board****Per Deepak Gupta, Chief Justice****20/06/2016**

1. This appeal is directed against the order dated 22.4.2016 passed in Writ Petition (C) No.1019 of 2016 wherein the petitioner had challenged the show cause notice issued by the Caste Scrutiny Committee. The allegations in this notice are that the Appellant does not belong to a Scheduled Tribe. The notice is very innocuous and all it requires the Appellant to do is to produce documents to show that he is a member of Scheduled Tribe. This notice was challenged in the

writ petition and the Learned Single Judge held that the petition was premature because the Appellant had a right to show cause to the Caste Scrutiny Committee the he belongs to Scheduled Tribe and also to take any other ground which may be legally available to him under the law. This judgment of the Learned Single Judge dismissing the petition in limine is under challenge before us.

2. The main ground raised by Mr. Tiwari is that the Learned Single Judge has not considered one of the issues raised before him that the notice of enquiry having been issued almost 20 years after joining of the Appellant was highly belated and in this behalf the Appellant has relied upon a judgment passed by Bombay High Court in Writ Petition No.3701 of 2002 (Anil Basant Rao Sirpurkar v. State of Maharashtra).

3. At the outset, we may notice that the order passed by the Learned Single Judge is on Board, meaning thereby that it was oral order and passed in presence of Learned Counsel for the Appellant. In case, Counsel feels that any of his arguments or averments have not been discussed, he should have pointed out to the Learned Single Judge there and then and even thereafter he could have filed a review petition that one of his contentions has not been considered.

4. Be that as it may, we have considered the submission raised by Mr. Tiwari. The judgment passed by the Bombay High court is not binding upon us and it only has a persuasive value. At the stage when the show cause notice has been issued, we do not find any reason to stall the proceedings to be conducted by the Caste Scrutiny Committee. It has been urged before us that since the Appellant is in employment for 20 years, the enquiry will be an exercise in futility. We are not in agreement with the submission of Learned Counsel for the Appellant.

5. At the very outset, we may clarify that we are not going into the merits of the case. However, for the sake of deciding this case, if it is found by the Caste Scrutiny Committee that the Appellant does not belong to the Scheduled Tribe and

has obtained a certificate by giving false information, then the Caste Scrutiny Committee can cancel his caste certificate and then consequences will follow. The Appellant may or may not lose his job but he will definitely be deprived of claiming of Scheduled Tribe status, in case the Scheduled Tribe certificate is cancelled. The caste certificate not only entitles a person for job but also other benefits under various schemes of the Government. The question whether the Appellant belongs to the Scheduled Tribe or not is a question which has to be decided by the Caste Scrutiny Committee which has the jurisdiction to decide this issue. We therefore are not in agreement with the submission of Learned Counsel for the Appellant.

6. We find no merit in the writ appeal. It is accordingly dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay K. Agrawal)
JUDGE