

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 212 of 2016

Tunia S/o Shri Samaaru, Aged About 71 Years R/o Bade
Atarmuda, Tahsil & District Raigarh Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Collector, Raigarh, District Raigarh Chhattisgarh
3. Tehsildar, Raigarh, District Raigarh Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Amrito Das, Advocate.
For State	:	Shri Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/02/2016

Heard.

1. This petition has been filed by the petitioner aggrieved by refusal on the part of the Tahsildar to provide necessary information to facilitate sale of the land belonging to the petitioner.
2. Learned counsel for the petitioner submits that without disputing that petitioner belongs to "khadia" community by caste, Tahsildar has proceeded to hold that "khadia" is included in "Kharia" Tribe Community as mentioned serial No.22 of the list of Schedule Tribe applicable in the State of Chhattisgarh. The Tahsildar has no such jurisdiction as there is no amendment in the list of Schedule Tribe by any parliamentary legislation as provided under the Constitution. In support of the submission reliance has been placed on a decision of the Supreme Court in the case of **State of**

Maharastra vs. Milind and others, (2001) 1 Supreme Court cases 4.

3. Learned counsel for the State was granted time to seek instructions but he is unable to make any definite statement in the matter.

4. Apparently, endorsement made on petitioner's application Annexure P/1 shows that the Tahsildar having recorded that petitioner belongs to "Khadia" community has proceeded to hold that "Khadia" is included in "Kharia" Tribal community. This is apparent from the endorsement made. It is no longer res integra that no exclusion or inclusion is permissible in the list of schedule tribe or schedule caste except by way of legislation. The Tahsildar had no authority to declare that "Khadia" is included in "Kharia" as mentioned serial No.22 of the list of Schedule Tribe of Chhattisgarh.

5. However, it would be open for the Tahsildar to summarily enquire whether the petitioner actually is "Khadia" or not. If it is found that the petitioner does not belong to "Kharia" as such but it is only a "khadia" as claimed by him, there should not be any difficulty in issuing necessary certificate in favour of the petitioner.

6. The enquiry, if necessary, should be completed within a period of 30 days.

7. The petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E