

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.4248 of 2010

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Akhil Bhartiya Kharia-Nonia Vikas Mahsangh & Anr.

.... Petitioner/s

Versus

The State of Bihar & Ors.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. MUKUL SINHA

For the Respondent/s : Mr. (AAG1)

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

ORAL JUDGMENT

Date: 14-02-2017

The petitioners allege non-compliance of the order dated 20th of April, 2010 passed in C.W.J.C. No.12334 of 2009. The Court has issued the following order:

“...An additional prayer has also been made to recommend Kharia-Nonia as a Scheduled Tribe by the State Government. My attention is drawn to various documents of the State Government wherein they have virtually conceded to the demand of the petitioners. This Court is ill-equipped to decide this issue at this stage. Therefore, it leaves to the State Government to take a decision in the matter in accordance with law at an early date so that the genuine claims are not denied, their due benefit which the Constitution confers on notified Scheduled Tribes.”

I do not find that there was any categorical direction for including Kharia-Nonia as a Scheduled Tribe. The Scheduled Tribe, entitled to benefit of reservation, has to be notified by the Central Government. In terms of the order passed by the learned



Single Bench, the Court has left to the State Government to take a decision in the matter in accordance with law. Since the power of notifying a Scheduled Tribe lies with the Central Government, I do not find that the petitioners can raise any grievance of alleged non-compliance of the order passed by this Court. No order can be issued to include a particular community in the Scheduled Tribe as such power is legislative in nature. The present contempt petition is, accordingly, dismissed.

The petitioners may avail such other remedies in accordance with law as may be available.

(Hemant Gupta, ACJ)

K.C.jha/-

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