

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2295 of 2016

- Vinay Kavar S/o Late Krishadan Kavar, Aged About 41 Years, R/o 41 Years, R/o Narayan Basta, Post Basta, Distt. Mahasamund, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh, through Secretary, Department of School Education, Mahanadi Bhawan, Naya Raipur, Raipur, (Chhattisgarh)
2. Collector, Mahasamund, Distt. Mahasamund, (Chhattisgarh)
3. District Education Officer, Mahasamund, Distt. Mahasamund, (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Pithora, Distt. Mahasamund, (Chhattisgarh)
5. Chhattisgarh Schedule Tribe Commission, Through Secretary, 61 Jalvihar Colony, Raipur (Chhattisgarh)

---- Respondents

For Petitioner	Shri Yogendra Pandey, Advocate
For Respondent-State	Shri S. P. Kale, Dy. AG
For Intervener	Shri Sanjay Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

25/04/2017

1. Petitioner is aggrieved by the order passed by the District Education Officer, Mahasamund on 31.05.2016 dismissing him from the services as Upper Division Teacher in the School Education Department.

2. Without adverting to unnecessary details, suffice it would be to mention that the petitioner's father was also working as Teacher in the Department of School Education when he died in harness, pursuant to which the petitioner was offered compassionate appointment on the post of Assistant Teacher on 18.08.1994. On some complaints that the petitioner does not belong to Scheduled Tribe Community but is enjoying benefit of being a Scheduled Tribe on the basis of forged certificate, the SDO (Revenue), Pithora made an enquiry recording the adverse finding against the petitioner, whereupon the Chhattisgarh Scheduled Tribe Commission passed an order on 22.12.2015 recommending cancellation of petitioner's appointment. At the same time, the petitioner was also served a notice by the State Level Caste Scrutiny Committee for verification of his caste status, however, before conclusion of the said enquiry, the impugned order has been passed dismissing him from the services.
3. Learned counsel for the parties would consent that the matter may be heard finally at this stage.
4. Admittedly, the respondents did not proceed to conduct any departmental enquiry against the petitioner nor the proceeding drawn by the State Level Caste Scrutiny Committee has attained finality. Moreover, the order dated 18.08.1994, by which the petitioner was offered compassionate appointment, would not reflect that such appointment was granted on any reserved post on the basis of petitioner's caste status. The petitioner is fully justified in submitting that his entry into the services not being a result of any forged document or misrepresentation committed by

him, merely because his subsequently obtained caste status certificate is under cloud, his services cannot be dispensed with.

5. It appears, the petitioner was not offered appointment in any process of recruitment on a post, which was reserved for Scheduled Tribe Community, therefore, his dismissal from services on this ground is not at all justified. Accordingly, the impugned order (Annexure-P-1) is quashed, however, if the petitioner has obtained any other benefit during his service career by any false representation on the basis of any forged certificate, the respondents would be at liberty to proceed in accordance with law, after the petitioner's caste status certificate is duly verified by the State Level Caste Scrutiny Committee.
6. The writ petition stands allowed, subject however to the above liberty in favour of the respondents.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala