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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 318 of 2017

- Anirudh Kumar Shinde S/o Chaitram Sinde, Aged About 53 Years
Caste Mahar, R/o Dayanagar, Resali, Civic Centre, Bhilai, District
Durg, (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of
Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg, Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg,
Chhattisgarh.
4. The Tahsildar, Durg, District Durg, Chhattisgarh.

---- Respondent

And

WPC No. 325 Of 2017

- Shailesh Kumar Gajbhiye S/o Late D. S. Gajbhiye, Aged About 42
Years, Caste Mahar, R/o House No. 104, Arya Nagar, District
Durg, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of
Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg, Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg,
Chhattisgarh.
4. The Tahsildar, Durg, District Durg, Chhattisgarh.

---- Respondent

And

WPC No. 324 Of 2017

- Roshan Kumar Nagdev S/o Ashok Kumar Nagdev, Aged About 24 Years, Caste Mahar, R/o Zone 1, B. M. Y. Ward No. 22, Charoda, Bhilai, District Durg Chhattisgarh.

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg Chhattisgarh.
4. The Tahsildar, Durg, District Durg Chhattisgarh.

---- **Respondent**

And

WPC No. 326 Of 2017

- Deepak Kumar Vahne S/o D. A. Vahne, Caste Mahar, Aged About 51 Years, R/o Plot B- 144, Road No.9, Smriti Nagar, Bhilai, District Durg, (Chhattisgarh)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. The Collector, Durg, District Durg, (Chhattisgarh)
3. The Sub Divisional Officer, (Revenue), Durg, District Durg, (Chhattisgarh)
4. The Tahsildar, Durg, District Durg, (Chhattisgarh)

---- **Respondent**

And

WPC No. 327 Of 2017

- Baliram Nandagauli S/o Ghondu Ji, Aged About 66 Years Caste Mahar, R/o House No. 12, Near Vegetable Market, Khursipar, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg, Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg, Chhattisgarh.
4. The Tahsildar, Durg, District Durg, Chhattisgarh.

---- Respondent

And

WPC No. 328 Of 2017

- Vipenda Kapde S/o Charandas, Caste Mahar, Aged About 43 Years, R/o Near Sitla Nagar, Ward No.5, Gali No.5, Durg, District Durg, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. The Collector, Durg, District Durg, (Chhattisgarh)
3. The Sub Divisional Officer, (Revenue), Durg, District Durg, (Chhattisgarh)
4. The Tahsildar, Durg, District Durg, (Chhattisgarh)

---- Respondent

And

WPC No. 329 Of 2017

- Anil Sakhare S/o Punaji Sakhare, Aged About 55 Years, Caste Mahar, R/o Ward No. 29, Gautam Nagar, Khursipar, Bhilai, District Durg (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.

2. The Collector, Durg, District Durg Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg Chhattisgarh.
4. The Tahsildar, Durg, District Durg Chhattisgarh.

---- Respondent

And

WPC No. 322 Of 2017

- Ashish Gedam S/o Suryakant Gedam, Aged About 26 Years, Caste Mahar, R/o Ward No. 58, Urla, Ambedkar Nagar, Durg, District Durg, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg Chhattisgarh.
4. The Tahsildar, Durg, District Durg Chhattisgarh.

---- Respondent

And

WPC No. 330 Of 2017

- Hitendra Kumar Borkar S/o Manohar Borkar, Caste Mahar, Aged About 42 Years R/o Karamchari Nagar, Sikolabhatta, Durg, District Durg, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur (Chhattisgarh)
2. The Collector, Durg, District Durg, (Chhattisgarh)
3. The Sub Divisional Officer, (Revenue), Durg, District Durg, (Chhattisgarh)

4. The Tahsildar, Durg, District Durg, (Chhattisgarh)

---- Respondent

And

WPC No. 331 Of 2017

- Manoj Borkar S/o Parmanand Borkar, Caste Mahar, Aged About 40 Years R/o L I G- 97, Kohka, H. B. Colony, Supela, Bhilai, District Durg, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. The Collector, Durg, District Durg, (Chhattisgarh)
3. The Sub Divisional Officer, (Revenue), Durg, District Durg, (Chhattisgarh)
4. The Tahsildar, Durg, District Durg, (Chhattisgarh)

---- Respondent

And

WPC No. 320 Of 2017

- Vishal Shyam Kunwar S/o Prahlad Shyam Kunwar, Aged About 40 Years, Caste Mahar, R/o Ward No. 57, Hari Nagar, District Durg Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg Chhattisgarh.
4. The Tahsildar, Durg, District Durg Chhattisgarh.

---- Respondent

And

WPC No. 332 Of 2017

- Smt. Animaka Bansodkar W/o Subhash Kumar, Caste Mahar, Aged About 32 Years, R/o Street No. 80, Sector 6, Bhilai, Civic Centre, District Durg, (Chhattisgarh)

---- Petitioner**Vs**

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. The Collector, Durg, District Durg, (Chhattisgarh)
3. The Sub Divisional Officer, (Revenue), Durg, District Durg, (Chhattisgarh)
4. The Tahsildar, Durg, District Durg, (Chhattisgarh)

---- Respondent**And****WPC No. 319 Of 2017**

- Sunil Kumar Dongre S/o Ramkrishna Dongre, Aged About 50 Years, Caste Mahar, R/o 5 B/4, Kuber Inclave, Karid Nagar, Kohka, Durg, District Durg, Chhattisgarh.

---- Petitioner**Vs**

1. State Of Chhattisgarh Through Its Secretary, Department Of Tribal Welfare, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Durg, District Durg, Chhattisgarh.
3. The Sub Divisional Officer (Revenue), Durg, District Durg, Chhattisgarh.
4. The Tahsildar, Durg, District Durg, Chhattisgarh.

---- Respondent

For Petitioners
For Respondent

Mr. Ravi Bhagat, Advocate
Mr. A.S. Kachhwaha, Additional Advocate
General

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****15/2/2017**

1. Heard.
2. It is submitted by learned counsel for the petitioners that the petitioners are either employed or unemployed, however, each of them belong to Scheduled Caste or Scheduled Tribe community as notified for the State of Madhya Pradesh (Now Chhattisgarh). He further submits that when the petitioners applied for issuance of caste status certificate, their applications have been rejected or not processed by the Choice Centre for the reason that the petitioners have failed to produce any document proving that they were residing in the State of Chhattisgarh prior to 1950. It is further put forth that in WPC No.5505 of 2011 (Yogendra Kumar Vs. State of Chhattisgarh and another), WP(S) No.871 of 2011 (Ku. Geeta Tandi vs. State of Chhattisgarh and others) and WPC No.1686 of 2015 (Prakash Meshram Vs. State of Chhattisgarh and others), this Court has held that non-availability of documentary evidence prior to 1950 alone could not be a ground for rejection of application.
3. Learned counsel for the State would submit that the State Government has enacted the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (in short "the Act, 2013") prescribing the procedure for issuance of permanent caste

status certificate.

4. Section 3 of the Act, 2013 would provide that any person belonging to a Scheduled Caste or a Scheduled Tribe or Other Backward Class may apply to the Competent Authority for issuance of a Social Status Certificate in such form and in such manner as may be prescribed. The word "Competent Authority" has also been defined under Section 2(b) of the Act, 2013.
5. It is informed that the SDO(R) having jurisdiction in his area, is the competent authority for issuance of caste status certificate.
6. Under Section 4(1), the Competent Authority is authorised, on receipt of an application under Section 3 and after making such inquiry as may be prescribed, to issue a social status certificate, provided that where the Competent Authority comes to a conclusion that there are sufficient reasons for rejecting the application for such certificate, it shall record the reasons for rejection in writing and inform the applicant accordingly.
7. A plain reading of the above said provision would manifest that under Section 4(1), the competent authority has to take decision, either granting certificate or rejecting the application, after making enquiry. Holding of an enquiry presupposes giving opportunity to the concerned applicant to satisfy the query or deficiency pointed out by the competent authority.
8. When application is rejected like in the present case, the competent authority is required to record the reasons for such

rejection. Recording of reasons is a facet of principles of natural justice which cannot be done unless the concerned individual is granted proper and sufficient opportunity of hearing before rejecting the application. Recording of reasons is also necessary for the fact that the order being appealable under Section 5 of the Act, 2013, the appellate authority would have opportunity to test the correctness of the reasons assigned by the competent authority while rejecting the application.

9. In the case in hand, the applications appear to have been rejected or returned by showing reasons in a computer generated document (Annexure P/2) and not by passing a reasoned order.
10. There are some reasons mentioned in the document -Annexure P/6, which is a memo issued from the office of Tehsildar, Durg to the Collector, Durg, when the Collector sought response from the Tehsildar on the representation preferred by the petitioner's counsel.
11. I am afraid, the memo -Annexure P/6 would not serve the requirement of law as contained in Sections 3 & 4 of the Act, 2013.
12. Considering the provisions contained in the Act, 2013 and for the fact that a detailed order has not been passed by the Tehsildar, Durg, the petitioners are permitted to move fresh applications for issuance of caste status certificate before the competent authority i.e. SDO(R), Durg in the manner prescribed

under the Act, 2013. On such applications being preferred, the SDO(R) shall making enquiry and pass reasoned order in terms of Sections 3 & 4 of the Act, 2013 within a period of 03 months from the date of submission of applications without being influenced by the earlier order passed by the Tehsildar, Durg.

13. The writ petitions are accordingly disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)

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