

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13571 of 2017

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Ramdahin Prasad, Son of Sri Ram Sharan Mahto, Resident of Village-
Bichha, P.O.- Rajwara, P.S.- Wazirganj, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Welfare Department, Government of Bihar, Patna.
4. The District Magistrate, Gaya, District- Gaya.
5. The District Welfare Officer, Gaya, District- Gaya.
6. The Sub-Divisional Officer, Sadar Gaya, District- Gaya.
7. The Circle Officer, Wazirganj, District- Gaya.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 15186 of 2017

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Karuna Kumari, Wife of Sri Amit Kumar and Daughter of Sri Ram Dahin Prasad, Resident of Village-Sriram Bigha, P.O.+P.S. + Block-Gurua, District-Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gaya, District-Gaya,
4. The Sub-Divisional Officer, Sadar, Gaya. District-Gaya
5. The Circle Officer. Wazirganj, District-Gaya.

... .. Respondents

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Appearance :

(In Civil Writ Jurisdiction Case No. 13571 of 2017)

For the Petitioner/s : Mr. Anita Kumari

For the Respondent/s : Mr. Sheo Shankar Pd.-SC8

(In Civil Writ Jurisdiction Case No. 15186 of 2017)

For the Petitioner/s : Mr. Anita Kumari

For the Respondent/s : Mr. Manish Kumar - GP4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 04-01-2018 Heard Mr. S.B.K. Manglam, learned counsel for the

petitioners and Mr. Sheo Shankar Prasad, learned S.C.-8, for the

respondent-State.



Re:-CWJC No. 13571 of 2017

The petitioner Ramdahin Prasad has prayed for quashing the letter dated 03.08.2017, issued vide Memo No. 52 dated 03.08.2017, under the signature of respondent no.7, the Circle Officer, Wazirganj, as contained in Annexure-16, whereby the caste certificate of the petitioner to the effect that he belongs to 'Dangi' caste issued vide Caste Certificate No. C/17/02247, was cancelled.

The factual matrix of the case is to the effect that in a Hukumnama drawn in favour of Doman Mahto, i.e., the Grandfather of the petitioner, his caste was mentioned as 'Koeri' (the Hukumnama is Annexure-P-4 to the writ application). The petitioner's daughter, namely, Karuna Kumari, while contesting the Gaya Zila Parishad Election, mentioned her caste as 'Dangi' and also produced a certificate to that effect, concerning which none of the other candidates, belonging to Dangi caste raised any objection. The constituency from which the petitioner's daughter had contested the election was reserved for the extremely backward caste. Subsequently, on her being declared elected on the post of Chairman, Zila Parishad, a complaint was filed under Section 136(2) of the Bihar Panchayat Raj Act, 2006 to disqualify the petitioner's daughter, on the ground that she



does not come from extremely backward caste 'Dangi'.

Pursuant to such complaint, the Election Commission directed the District Magistrate, Gaya to conduct an enquiry and submit report concerning the caste of the petitioner's daughter, Karuna Kumari.

It is next contended that during the course of enquiry, Smt. Lakshmi Devi and Dr. Umesh Kumar, placed on record a caste certificate issued by the Circle Officer, Wazirganj, Gaya i.e., respondent no.7, to contend that the petitioner's daughter is 'Koeri Kushwaha' by caste. Though, the petitioner has got registered one FIR against Smt. Lashmi Devi and Dr. Umesh Kumar, which is Wazirganj P.S. Case No. 516 of 2016 dated 19.12.2016 claiming that the said two persons have committed forgery, to create such caste certificate. It is submitted that before getting the FIR registered, the petitioner had filed an application for grant of caste certificate in his name and on receipt of such application, the Circle Officer, Wazirganj i.e., Respondent no.7, cancelled the earlier certificate on 02.07.2016, as he found it to have been issued on the basis of a fake application. The cancellation order dated 02.07.2016 is Annexure-P-7 to the application.

Under the provision of Right to Information Act, the son-



in-law of the petitioner, was informed by the Respondent no.-7, vide Memo No. 87 dated 21.03.2017, that the caste certificate dated 30.06.2016 has already been cancelled and that steps are being taken for issuance of fresh caste certificate in favour of the petitioner.

After certain developments, the petitioner had to again submit an application on 14.06.2017, for issuance of caste certificate, which was forwarded to the Panchayat Sewak for enquiry. Upon enquiry, the Panchayat Sewak recommended on 16.06.2017 for issuance of caste certificate of Dangi caste in favour of the petitioner. The recommendation dated 16.06.2017 is Annexure-P-12 to the writ application. As such, a computerized caste certificate bearing No. C/17/02247 was prepared on 16.06.2017, which was handed over to the petitioner, in the signature of Respondent no.7, on 24.06.2017. The caste certificate is Annexure-P-14 to the writ application.

So far as the proceeding under Section 136(2) of Bihar Panchayat Raj Act, 2006, against the petitioner's daughter is concerned, Case No. 2 of 2016 was instituted before the Election Commission, wherein after hearing the parties, it was directed to cancel the caste certificate of Karuna Kumari, as she had produced the certificate of her sister Kiran Kumari, which



was found to be forged. Although, the petitioner was not a party in such proceeding, the District Magistrate, Gaya, i.e., Respondent no.4, compelled the Circle Officer, Wazirganj, to cancel the caste certificate of the petitioner, as well as his son and daughter. Pursuant thereto, the Respondent No.7, has cancelled the caste certificate of the petitioner, vide order dated 03.08.2017, issued under Memo No. 52, as contained in Annexure-P-16, without notice or any opportunity of hearing being granted to the petitioner, which is the order under challenge.

Learned counsel for the petitioner contends that Karuna Kumari, the petitioner's daughter challenged the order dated 05.10.2016 (contained in Annexure-P-15) passed by the District Magistrate, Gaya, Respondent No.7, in a writ application bearing CWJC No. 19127 of 2016, which was disposed of vide order dated 21.06.2017, with liberty to Karuna Kumari to approach the Caste Scrutiny Committee for getting a declaration regarding her caste. Such caste Scrutiny Committee has been constituted in pursuance to the decision of the Apex Court in the case of **Kumari Madhuri Patil Vs. The Additional Commissioner Tribal Development and others** reported in **(1994) 6 SCC 241**. Accordingly, in pursuance to the decision in



CWJC No. 19127 of 2016, the General Administration Department, has declared vide order dated 22.12.2017, under the signature of Principal Secretary, Home, that Karuna Kumari belongs to 'Dangi' caste, on the basis of the enquiry report of I.G., Police, Weaker Section, C.I.D., Bihar, which was submitted vide Memo No. 1381 dated 13.12.2017.

In the counter affidavit filed on behalf of Respondent No.4 to 7, it is contended that in the Khatiyani, the caste of the father of the writ petitioner, was recorded as 'Kushwaha', which is also repeated in the Sade Deed dated 17.06.2009, executed by the father of the writ petitioner. In the school records also, the caste of the daughter of the writ petitioner is recorded as 'Kushwaha'. Moreover, the S.D.O., Sadar Gaya after enquiring, has also reported vide Letter No. 245/Con. Dated 28.07.2016, in Village Bichha, the native village of the petitioner, people from Kushwaha caste reside, while there is not a single person belonging to 'Dangi' or 'Koeri' caste. While in the School Register, the petitioner has recorded in his own handwriting that his caste is 'Dangi'. Hence, it was under such circumstances, that the caste certificate of the petitioner has been cancelled.

Considering the rival submissions of the parties, without expressing any opinion with regard to claim of the petitioner of



belonging to 'Dangi' caste, Letter dated 03.08.2017, issued under the signature of Respondent No.7, the Circle Officer, Wazirganj issued vide Memo No. 52 dated 03.08.2017 is hereby set aside on the ground that the caste certificate of the petitioner has been cancelled without giving notice to him, with liberty to State Level Scrutiny Committee to decide the issue within a period of six weeks, keeping in view the order of the Principal Secretary, as contained in Annexure-P-18 of supplementary affidavit filed in C.W.J.C. No. 15186 of 2017.

It is made clear that the State Level Scrutiny Committee shall decide the matter afresh, while so far as the caste certificate of the petitioner, bearing Caste Certificate No. C/17/02247, is concerned, the petitioner shall not use the same to his advantage, in any manner whatsoever, until a decision is taken by the State Level Scrutiny Committee.

Accordingly, with the observation and direction made above, C.W.J.C. No. 13571 of 2017 is disposed of.

Re:-CWJC No. 15186 of 2017

Karuna Kumari (the daughter of the petitioner in C.W.J.C. No. 13571 of 2017) is the petitioner of this writ application, wherein prayer has been made for quashing the order contained in Memo No. 251 dated 28.07.2017, whereby the respondent



no.5, the Circle Officer, Wazirganj has cancelled the caste certificate of the petitioner, bearing No. C/17/02733 dated 22.07.2017, in pursuance to the order passed by the District Magistrate, Gaya in Case No. 02 of 2016.

Mr. S.B.K. Manglam, learned counsel for the petitioner, seeks permission to withdraw the writ application bearing C.W.J.C. No. 15186 of 201, in view of the fact that the prayer of the petitioner has become infructuous, since the State Level Scrutiny Committee has declared that the petitioner Karuna Kumari, belongs to 'Dangi' caste, on the basis of the report of I.G. Police, Weaker Section, C.I.D., Bihar, dated 13.12.2017, as contained in Annexure-P-18 to the supplementary affidavit, since the petitioner seeks to pursue her remedy, for the ancillary grievances, before appropriate forum, as directed by this Court, vide order dated 21.06.2017, passed in C.W.J.C. No.19127 of 2016.

Permission is accorded.

Accordingly, C.W.J.C. No. 15186 of 2017 is dismissed as withdrawn.

(Dinesh Kumar Singh, J)

Amrendra/-

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