

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3663 of 2008**

Order Reserved On : 27/08/2018

Order Passed On : 11/12/2018

- Raghoba, son of Shri Raghupat Rao Mahadik, aged about 45 years, resident of Rajim, Tehsil Rajim, District Raipur

---- **Petitioner****Versus**

1. State Of Chhattisgarh, through the Secretary, Ministry of Panchayat, DKS Bhawan, Raipur
2. The Caste Certificate Scrutiny High Power Committee, through its Secretary, Caste Certificate Scrutiny High Power Committee, Raipur.
3. The Collector, Raipur.
4. The Tehsildar, Rajim, District Raipur

---- **Respondent****WPC No. 38 of 2017**

- Raghoba Mahadik S/o Shri Raghupati Rao Mahadik, Aged About 52 Years R/o Ward No. 3, Rajim, Tahsil Rajim, District Gariyaband Chhattisgarh.

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development, Mahanadi Bhawan, New Raipur Chhattisgarh.
2. The Collector, Gariyaband, Office Of The Collector, Gariyaband CG
3. The Collector, (Adivasivikas), Gariyaband Chhattisgarh.
4. The Assistant Commissioner, (Adivasivikas), Gariyaband Chhattisgarh.
5. The Tahsildar, Gariyaband, District Gariyaband Chhattisgarh
6. The Chhattisgarh Lokaayog, Gandhi Chowk, Raipur Chhattisgarh.
7. The Chief Executive Officer, Zila Panchayat, Gariyaband

Chhattisgarh

8. The Chief Executive Officer, Janpad Panchayat Fingeshwar, District Raipur Chhattisgarh

---- Respondent

For Petitioner : Shri B.P. Sharma with Shri Hari Agrawal, Advocates.
 For Respondent/State : Shri AS Kachhawaha, Additional AG.
 For Respondent No.8 in WPC 38/17 : Shri Neeraj Pradhan, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. In WPC No.3663/2008, the petitioner has called in question the legality and validity of the order passed by the High Power Caste Scrutiny Committee (henceforth 'the Committee') on 10.12.2007 holding that the petitioner does not belong to Kunbi, OBC community. In WPC No.38/2017, the petitioner would assail the show cause notice issued to him by the Collector, Gariyaband, as to why appropriate action may not be taken against him under the Chhattisgarh Panchayat Raj Adhiniyam, 1993 for obtaining false caste certificate. The petitioner is presently holding the office of President, Janpad Panchayat Fingeshwar, District Gariyaband.
2. The petitioner claims to be a member of Kunbi, OBC community and had obtained a caste status certificate which was cancelled on 19.10.2005. The Committee issued show cause notice to the petitioner to file documents in support of his claim that he belongs to Kunbi community. However, the petitioner could not file any document substantiating his claim. On the contrary, investigation report in respect of the petitioner's caste status reveals that Dakhil

Kharij Register of Boys Primary School, Rajim where the petitioner got admitted on 1.8.1969 is carrying an entry in respect of the petitioner's caste status showing that he belongs to “**Maratha**” community. Similarly, in Misal Bandobast of 1930-31 of village Kondkera, Rajim, caste status of his ancestor (Kundu, Wd/o Narayan Rao Mahadik) is also mentioned as “**Maratha**”.

3. In the absence of any proof submitted by the petitioner showing any authentic document carrying his caste status as Kunbi, OBC, the Committee concluded that the petitioner wrongly and fraudulently obtained caste status certificate of being a member of OBC community.
4. In the matter of **Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and Another** {AIR 1995 SC 1506}, it is held that onus to prove caste status is on the person who claims to be belonging to such caste. The present petitioner failed to discharge that onus by producing cogent, reliable and clinching evidence. Therefore, finding recorded by the Committee being in the nature of finding of fact, which has been arrived at after following principles of natural justice, the same is not interfere-able while exercising jurisdiction under Article 226 of the Constitution of India.
5. The show cause notice issued by the Collector, Gariyaband which is under challenge in WPC No.38/2017 is also sans merit for the reason that once caste certificate has been cancelled and the Committee has concluded that the petitioner does not belong to Kunbi, OBC community, necessary legal consequences would follow

and the authorities cannot be restrained from proceeding ahead with the matter.

6. For the above stated reasons, both the Writ Petitions deserve to be and are hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve