

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.C.C. No. 938 of 2017**

Smt. Ranikori, W/o Naresh Kumar Kori, aged about 34 years, working as Anganbadi Assistant, Resident of Harratola, Tahsil – Pendraroad, District Bilaspur (C.G.)

---- Petitioner

**Versus**

1. State of Chhattisgarh, through Secretary, Department of Women and Child Welfare, Mahanadi Bhawan, Naya Raipur, Tahsil and District Raipur (C.G.)
2. Chief Executive Officer, Janpad Panchayat Gourela, Tahsil Pendraroad, District – Bilaspur (C.G.)
3. Project Officer, Integrated Child Development Department, Gourela, Janpad Panchayat Gourela, District – Bilaspur (C.G.)
4. Smt. Mankunwar, W/o Bajrang Prasad Kori,
5. Smt. Sushila, W/o Late Amar Singh Gond,
6. Smt. Satyawati, W/o Raijiyawan Kori, Respondents No. 4 to 6 are resident of village – Harrotola, Tahsil – Pendraroad, District – Bilaspur (C.G.) (Respondents)

---- Respondents

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| For Petitioner                     | : | Mr. Palash Tiwari, Advocate.     |
| For State/respondents<br>No. 1 & 3 | : | Mr. Ratan Pusty, Govt. Advocate. |
| For Respondent No. 2               | : | Mr. Arun Sao, Advocate.          |
| For Respondent No. 4               | : | Mr. Ashok Soni, Advocate.        |

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**12/04/2018**

(1) The writ petition filed by the petitioner being Writ Petition (227) No. 307 of 2005 was dismissed by this Court by order dated 21.09.2017.

(2) Feeling aggrieved and dissatisfied with that order, petitioner preferred S.L.P. (Civil) No(s). 29955/2017.

(3) Hon'ble Supreme Court, by its order dated 10.11.2017, pleased to direct as under:-

“Learned counsel for the petitioner states that not only she was S.C. of State of Madhya Pradesh but she also belongs to S.C. of State of Chhattisgarh, as her caste is covered by the notification applicable to the State of Chhattisgarh also.

Let this aspect be gone into by the High Court, if an application is moved by the petitioner before the High Court within four weeks from today. If the petitioner is aggrieved of the order which the High Court may pass, she will be at liberty to move this Court again.

Till the matter is taken up by the High Court, there will be status quo as on date.

The special leave petition is accordingly disposed of.

Pending application, if any, shall also stand disposed of.”

(4) In view of above, the petitioner has filed this review petition before this Court, which was admitted and the notices were issued to the respondents and they were represented through their respective counsel.

(5) Learned counsel appearing for the petitioner would submit that the petitioner's caste is *Kori*, which is notified as Scheduled Caste in the State of Madhya Pradesh and also notified as Scheduled Caste in the State of Chhattisgarh and, therefore, she is entitled for benefit of her reservation in the State of Chhattisgarh. He placed reliance upon the decision rendered by the Rajasthan High Court in the matter of **Sahendra Bai (Mrs.) Vs. R P S C And another**<sup>1</sup> **and** the decisions rendered by the

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1 WLC (Raj.) 252

High Court of Uttarakhand (Nainital Bench) in the matter of **Ajay Kumar Nirbhay Singh and others Vs. State of Uttarakhand and others**<sup>2</sup> and in the matter of **Jyoti Bala Vs. State of Uttarakhand & another**<sup>3</sup> in support of his case.

(6) On the other hand, learned counsel appearing for the State would submit that in the matter of **Raj Kappor Kachwaha & another Vs. State of Chhattisgarh & others**<sup>4</sup>, similar issue was involved and this Court has answered the said issue against the petitioner and, therefore, the petitioner is not entitled for benefit of reservation in the State of Chhattisgarh.

(7) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(8) This Court in the matter of **Raj Kappor Kachwaha** (supra), has decided the similar issue. This Court noted the argument as under : -

“6. Learned counsel for the petitioners argued that in the first instance, the caste Khatik has been notified as Scheduled Caste in the State of Madhya Pradesh as well as in the State of Chhattisgarh. Earlier, the State of Chhattisgarh was part of Madhya Pradesh and considering the suffering, disabilities and hardship of Khatiks, they have been classified as Scheduled Caste. Therefore, by merely bifurcation of the State of Chhattisgarh benefit of Scheduled Caste cannot be denied to the petitioners.”

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<sup>2</sup> 2012 LawSuit (Utt) 390

<sup>3</sup> 2009 1 UD 1

<sup>4</sup> 2005 (2) C.L.J.J. 243

(9) This Court, thereafter considered the various decisions of the Supreme Court in the matters of ***Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College and others***<sup>5</sup>, ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and another Vs. Union of India and another***<sup>6</sup> and held as under:

“11. Therefore, in view of the above judgments of the Apex Court, it is clear that even if a particular caste belonging to the same nomenclature is specified in two states but the consideration on the basis of which they had been specified may be totally different, looking to the degree or disadvantages of various elements which constitute the date of specification may also be entirely different. In view of the above law laid down by the Apex Court even if the Khatik caste has been notified as Scheduled Caste in the State of Chhattisgarh, the petitioners being residents of Katni, State of Madhya Pradesh, automatically doe not entitle for the same benefit which are available to the persons of the Khatik caste who are residents of the State of Chhattisgarh as there may be different considerations and degree of disadvantages or various elements which constitute the Khatik caste as Scheduled Caste in the States of Madhya Pradesh & Chhattisgarh. Therefore, petitioner No. 2's father being resident of Katni, State of Madhya Pradesh, petitioner No. 2 is not automatically entitled for the benefit of Scheduled Caste on parity with the persons of Khatik community of State of Chhattisgarh because, the Khatik community of Madhya Pradesh was classified as Scheduled Caste in respect of the State of Madhya Pradesh under the Constitution, whereas the Khatiks of the State of Chhattisgarh have been classified as Scheduled Caste by the Act of Parliment (M.P. Re-organization Act, 2000) under clause (2) of

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5 (1990) 3 SCC 130

6 (1994) 5 SCC 244

Article 341 of the Constitution in respect of the State of Chhattisgarh under the Constitution.”

(10) This Court has, thus, clearly held that if a particular caste belonging to same nomenclature is specified in two States, then also the Scheduled Tribe candidate of one State is not entitled for privilege and benefits of other State.

(11) I am bound by the decision rendered by this Court in the matter of **Raj Kappor Kachwaha** (supra). So far as other decisions rendered by High Court of Uttarakhand in the matters of **Ajay Kumar Nirbhay Singh (supra) & Jyoti Bala (supra)** is concerned, they are quite distinguishable from the facts and circumstances of the present case.

(12) In view of the aforesaid discussion, I do not find any merit in the instant review petition. Accordingly, the same is dismissed.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-

