

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 526 of 2008**

- Dilip, Son Of Dumar, aged about 36 years, Resident Of Quarter No. M/484, Sakti Nagar, Post Bhatgaon, District Surguja (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, General Administration Department, DKS Bhawan, Raipur (CG)
2. South Eastern Coalfields Ltd Through Its Chairman Cum Managing Director, Seepat Road, Bilaspur (C.G.)
3. The Chief General Manager (Works & Administration), South Eastern Coalfields Ltd. Bhatgaon Area, District Surguja (C.G.)
4. The District Collector, Giridih, District Surguja (CG)
5. The Block Development Officer, Jamuva, Giridih, District Surguja (CG)

---- Respondent

For Petitioner : Shri T.K. Tiwari, Advocate.

For Respondent/State : Shri Vikas Bhaskar on behalf of Shri Rajendra Tripathi, Panel Lawyer

For Respondents 2 & 3 : Shri Vaibhav Maheshwari on behalf of Shri Abhishek Sinha, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board**22/08/2019 :**

1. The petitioner would challenge the order dated 25.6.2007 passed by respondent No.2 terminating his services as Mining Sirdar upon

finding in unilateral enquiry that the caste status certificate produced by the petitioner at the time of obtaining employment was forged.

2. Learned counsel for the petitioner would submit that at the time of making enquiry to ascertain the genuineness of the caste status certificate, the petitioner was not provided any opportunity of hearing. Therefore, such report prepared behind the back of the petitioner cannot form basis for termination of his services. He would submit that the petitioner in fact belongs to ST category.
3. Per contra, learned counsel for respondents No.2 & 3 would refer to the enquiry report (Annexure-P/7) emanating from the office of Prakhanda Vikas Padadhikari, Jamua, Girideeh in the State of Jharkhand to contend that the caste status certificate produced by the petitioner was reportedly not issued by the concerned authority. Therefore, this certificate is concocted and fabricated document, attracting invocation of terms of clause-12 & 13 of the appointment order which say that if the employment has been obtained on the basis of false information, the same shall be liable to be cancelled without serving notice.
4. The petitioner has produced the caste certificate issued by the authority Prakhanda Vikas Padadhikari, Jamua, Girideeh in the State of Jharkhand, however, before branding such certificate to be

forged, neither the employer SECL nor the certificate issuing authority has issued any notice or afforded any opportunity of hearing to the petitioner. It is settled law that any action or order having civil consequences cannot be passed without providing opportunity of hearing. Even if appointment order provides a condition that in the event of finding that any information supplied by the candidate is found to be incorrect or false, his appointment is liable to be cancelled, to ascertain the falsity of information, opportunity of hearing needs to be provided to the concerned individual. Doing away with the principle of natural justice, as contained in the appointment order, would be applicable at the stage when the information is found to be incorrect. The employer was bound to hear the petitioner at the first stage i.e. at the stage of finding that the information supplied by the petitioner is false or incorrect.

5. In view of the above, the matter is remitted back to respondents No.2 & 3 for holding enquiry about genuineness of the caste status certificate produced by the petitioner at the time of obtaining employment on the post of Mining Sirdar. In such enquiry, respondent No.2 shall provide opportunity of hearing to the petitioner and shall also summon the authority with records who issued the certificate in favour of the petitioner.

6. If the certificate is found to have been issued by the concerned authority, the petitioner's services shall stand restored and he shall be entitled for all the consequential benefits like back wages and seniority. If on the other hand it is found that the certificate produced by the petitioner is forged, respondent No.2 shall be entitled to lodge FIR against the petitioner for securing employment on the basis of forged certificate.
7. With the aforesaid observations/directions, the Writ Petition stands disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve