

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 6607 of 2007

Kashiram Baiga S/o Late Shri Jhakkar Ram Baiga, aged about 38 years, Occupation - Service, Working as Compunder, Government Ayurvedic Dispensary, Parsada, District Korba (Wrongly mentioned as District Bilaspur), Chhattisgarh.

---Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Government of Chhattisgarh, Department of Health and Family Welfare, Mantralaya, D.K.S. Bhawan, Raipur (C.G.).
2. State of Chhattisgarh, Through Secretary, Scheduled Castes & Scheduled Tribes Development Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.).
3. Collector, Korba, District Korba (C.G.).
4. Caste Certificate High Level Scrutiny Committee, Through its Member Secretary-cum-Commissioner, Tribal and Scheduled Caste Development, Pandit Ravishankar Shukla University Campus, Raipur (C.G.).
5. Director, Indian System of Medicine and Homeopathy, Chhattisgarh, Raipur (C.G.).
6. District Ayurvedic Officer, Kosabadi, District Korba (C.G.).

---Respondents

For petitioner	:	Shri Ranbir Singh Marhas, Advocate.
For State	:	Shri Jitendra Pali, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/01/2019.

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 27/08/2007 passed by the respondent no. 4 - High Level Caste Scrutiny Community of the State of Chhattisgarh.

2. Vide the said order, the respondent no. 4 had given a finding that, the petitioner does not belong to the "Baiga" community (Scheduled Tribe) and he is in fact a member of the "Dheemar" community.

3. When the Writ petition was initially filed, the petitioner had an interim order in his favour vide order dated 16/11/2007. Pending the Writ petition before this Court on 18/04/2017 when the matter came up for hearing, this Court had passed the following order :-

"The petitioner is aggrieved by the order passed by the High Level Caste Scrutiny Committee which has recorded a finding that the petitioner in fact belongs to Dhimar, OBC community and is not Baiga (ST). Challenge is thrown on the ground that show cause notice issued by the said Committee was not accompanied with the relevant documents, therefore, the petitioner was not granted proper opportunity to defend and establish his case that he belongs to Baiga (ST) community.

This Court has granted interim order in favour of the petitioner on 16.11.2007. The finding about caste status of an individual is in the realm of finding of fact, therefore, ordinarily the same is not interfered by the writ Court unless there is some inherent flaw in the decision making process adopted by the High Level Caste Scrutiny Committee.

Having heard learned counsel for the parties, it appears, the petitioner deserves an opportunity to put forth his case to satisfy the High Level Caste Scrutiny Committee that he belongs to Baiga (ST) community.

Let the said Committee issue fresh show cause notice together with all the relevant documents to the petitioner within a period of one month and after obtaining reply from the petitioner, complete the enquiry in accordance with law, within a further period of 3 months. The finding of the Committee shall be made over to this Court through the office of Advocate General after 4 months."

4. Though, such an order was passed on 18/04/17, neither the respondent No. 4 nor has the State Government produced any report in compliance of the order of this Court.

5. Today when the matter was called for hearing, the learned counsel appearing for the petitioner submits that, as per the direction of this Court dated 18/04/2017, the Committee had reconsidered the case of the petitioner and have passed a fresh order on 13/11/2017 and in the subsequent order i.e. the order dated 13/11/2017, contrary to the earlier finding, the Committee i.e. the respondent No. 4 has given a finding that, the petitioner infact belongs to the "Baiga" community which is a Scheduled Tribe, as per the Madhya Pradesh Reorganisation Act, 2000 where "Baiga" is also declared as a Scheduled Tribe and is placed at Sr.No.3 in part 20 of Schedule IV.

6. The said report dated 13/11/2017 passed by the respondent No. 4 has been brought on record by the counsel for the petitioner.

7. Given the subsequent development in as much as the respondent No. 4 having passed a fresh order and declaring that the petitioner infact belongs to the "Baiga" community, the earlier order by itself stands superseded and it has infact lost its efficacy and the impugned order Annexure-P/1 accordingly stands set-aside/quashed with consequences to follow.

8. It is made clear that, the respondents would not be now permitted to take any action pursuant to the impugned order Annexure-P/1 dated 27/08/2007.

9. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit