

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2072 of 2019

Pushkar Lal Chandra S/o Late Shyam Lal Chandra Aged About 59 Years Through Rural Agriculture Extension Officer, In The Office Of Senior Agriculture Development Officer, Block - Gourela, District- Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Agriculture Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Uchcha Stariya Jatipramanpatra Chhanbin Samiti And Director (In The Matter Of Scrutiny Of Sc/st Caste Certificate), Scheduled Caste In Research And Training Institute, Through Its Secretary Pandit Deendayal Upadhyay Nagar, Sector-4, Raipur, Chhattisgarh.
3. The Director Through Agriculture Directorate Raipur, District- Raipur, Chhattisgarh.
4. The Divisional Joint Director Agriculture Through Bilaspur Division, Bilaspur, District- Bilaspur, Chhattisgarh
5. The Deputy Director Through Agriculture, Bilaspur, District- Bilaspur, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. A.S. Rajput, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/07/2019

1. The challenge in the present writ petition is to the orders Annexure P/6 dated 27.06.2016 and Annexure P/8 dated 28.02.2019.
2. Vide Annexure P/6, the State Level High Power Caste Scrutiny Committee has passed an order holding that the caste certificate which the petitioner is possessing was not proper and legal, in as much as the petitioner has a certificate of "Mahaar" caste, whereas under the records, which the Vigilance Cell of the High Power Caste Scrutiny Committee could gather, the caste reflected in the record showed the ancestors of the petitioner belonging to "Mehra" caste. Thus, the Committee had ordered for

cancellation of the caste certificate, which the petitioner was issued on 18.11.1980 and also for appropriate action thereafter. Vide Annexure P/8 the respondent No.4 pursuant to the findings given by the Caste Scrutiny Committee has ordered for terminating the services of the petitioner with immediate effect.

3. The facts of the case is that the petitioner got appointed under the erstwhile State of Madhya Pradesh as a Rural Agriculture Extension Officer in the year 1988. As a consequence of the creation of the new State, the petitioner stood allocated to the State of Chhattisgarh, where he was working as a Rural Agriculture Extension Officer at Block Gaurela, District Bilaspur.
4. The contention of the petitioner is that inspite of the fact that the petitioner belongs to the scheduled caste category. He has been given appointment under the unreserved category and that the appointment of the petitioner was not taking advantage of the reservation available to the category to which the petitioner belonged.
5. According to the petitioner, right from 1988 onwards, he has been continuously working under the respondents without any complaint whatsoever. Meanwhile, the State Government had referred the case of the petitioner to the State Level High Power Caste Scrutiny Committee for verification of the caste certificate, that the petitioner had, dated 18.11.1980 issued by the Nayab Tahsildar, Marwahi, District Bilaspur.
6. The State Level High Power Caste Scrutiny Committee, thereafter vide order dated 27.06.2016 reached to the conclusion that the certificate which was issued in favour of the petitioner on 18.11.1980 was an incorrect certificate, in as much as the petitioner did not belong to the said caste. The finding of the Committee is that the certificate dated 18.11.1980 showed the

petitioner belonging to “Mahaar” caste, whereas as per the course of the inquiry the ancestors of the petitioner have been found to be belonging to “Mehra” caste. It thus ordered for cancellation of his appointment and the benefits whatever the petitioner has availed on the basis of the said certificate.

7. Based upon the said finding of the High Power Caste Scrutiny Committee the respondent No.4 has issued the impugned order dated 28.02.2019 terminating the services of the petitioner with immediate effect. The finding of the respondent No.4 also is that since there is an order passed by the High Power Caste Scrutiny Committee, there is no requirement of conducting a departmental enquiry before terminating the services of the petitioner. It is these two orders, which are under challenge in the present writ petition.
8. At this juncture, the counsel for the petitioner submits that as of now he does not intend to press the challenge that he has made in the present writ petition to the Annexure P/6 dated 27.06.2016, passed by the State Level High Power Caste Scrutiny Committee reserving the right to challenge the same at an appropriate stage later on. He confines his petition to the challenge only to Annexure P/8 dated 28.02.2019. According to the petitioner, since there has been no inquiry conducted by the respondents to ascertain whether the petitioner has obtained employment getting advantage of his caste status, the impugned order apparently is bad in law. He further categorically submits that the appointment order (Annexure P/1) does not reflect that the petitioner has been appointed taking advantage of the reservation or taking advantage from the caste certificate that the petitioner had.

9. This Court on the previous date had ordered the State Government to verify from the service book of the petitioner, whether the petitioner had been appointed against the reserved category or has been appointed on merit under the unreserved category. The learned Deputy Advocate General present in the Court submits that they have got the attested copy of the service book of the petitioner and from the perusal of the entries made in the service book, it does not appear that the petitioner has been given appointment taking advantage of the reserved category to which the petitioner claimed himself to be out.
10. Having heard the contentions put forth on either side and on perusal of record, from the proceedings what is clearly reflected is that the impugned order (Annexure P/8) dated 28.02.2019 passed by the respondent No.4 was not one, which was passed after any sort of inquiry conducted ascertaining the fact that petitioner had been appointed against the reserved category candidate. Once when the Caste Scrutiny Committee has cancelled the caste certificate of the petitioner and the matter was placed before the competent authority in the Department to proceed further, it is expected that the authorities atleast would conduct a preliminary enquiry to ascertain whether the petitioner had got his employment against the reserved category or against the unreserved vacancy. It would be a situation where in the selection process, the petitioner might have been a meritorious candidate and would have been appointed against the unreserved vacancy. Under the said circumstances, the services of the petitioner cannot be terminated even on the caste certificate of the petitioner getting cancelled.
11. Another aspect, which the respondents ought to have inquired into was whether at the time of appointment, the petitioner by virtue of the caste

certificate that he had, had obtained any relaxation for participating in the recruitment process. Even if that would be in the case, the petitioner's termination order would be justified. Moreover, there is a categorical statement made by the petitioner that he has been appointed against the unreserved category and that in between the petitioner has never availed any benefit of promotion or anything as such based on the caste certificate that he has.

12. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that the impugned order (Annexure P/8) dated 28.02.2019 is not sustainable and the same deserves to be and is accordingly set-aside with all consequences to follow. However, since this Court is setting aside the order on the ground that the impugned order has been passed without an inquiry, the liberty is left for the State Government to take appropriate steps by holding an inquiry, if they so want ascertaining the fact that the petitioner has either availed any relaxation at the time of appointment or had been appointed against the reserved vacancy before passing an order afresh.
13. With the aforesaid observations, the writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved