

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 5709 of 2011**

- Srimati Jayarani Morla, aged about 40 years, wife of Krishna Ram Morla, resident of village Tokapal, Tahsil Tokapal, District Bastar (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through: The Secretary, Scheduled Castes and Scheduled Tribes Development Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Durg District Durg, (C.G.)
3. Sub Divisional Officer (Revenue) Department, Durg
4. The Additional Tehsildar, Bhilai Nagar, Durg (Competent Authority) District Durg

---- Respondents

For Petitioner : Shri Shobhit Koshta, Advocate

For Respondents/State : Shri Avinash Singh, PL

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****12/09/2019**

1. Heard.
2. The present petition is against the order dated 27.05.2011 passed by the Additional Tehsildar.
3. The contention of the petitioner is that she had applied for a caste certificate before the Additional Tehsildar, Bhilai Nagar, Durg as she belongs to Mehar community, which is scheduled as a Schedule caste in the Constitution (Scheduled Castes) Order, 1950. The Additional Tehsildar has refused to issue such caste certificate even to consider the same on the ground that the

forefathers of the petitioner were residents of Nagpur, Maharashtra. Therefore, since the forefathers were residents of Juna Bagadganj, Tehsil & District Nagpur before the presidential order dated 10.08.1950, she would not be entitled to get the certificate.

4. Learned counsel for the petitioner would submit that the petitioner had filed the documents to show that the father of the petitioner was an employee of Bhilai Steel Plant, which is a Central Government public sector undertaking, therefore, as per the circular which has been judicially accepted by this Court in the case of ***Ravikant Meshram Versus State of Chhattisgarh & ors. (WPC No.4408 of 2008, decided on 27th of July, 2010)***, the application of the petitioner cannot be dismissed or rejected on that ground that she is not entitled for caste certificate as her forefathers were residents of Nagpur, Maharashtra.
5. Per contra, learned State counsel submits that the order impugned is well merited since the forefathers of the petitioner were resident of Nagpur, Maharashtra on the date of presidential notification of 1950, as such the order need not be canceled.
6. I have heard learned counsel for the parties.
7. The contention of the petitioner that the father of the petitioner though lived at Nagpur before the date 10.08.1950 i.e. the Constitution (Scheduled Castes) Order, 1950, but subsequent to it he joined his services in the year 1958 at Bhilai Steel Plant and the petitioner by birth lived and was brought up at Bhilai, within the State of Chhattisgarh. The document filed as Annexure P-1 would show that the father of the petitioner stand superannuated on 11.04.1997. With respect to the Constitution (Scheduled Castes) Order, 1950 which is at Part

XXIII, the caste Mahar is included at serial No.33 with respect to Chhattisgarh.

The refusal of the caste certificate was made on the ground that the father of the petitioner lived at Nagpur prior to 10.08.1950. There is no dispute to the fact that the father of the petitioner worked at Bhilai Steel Plant and the childhood of the petitioner and she was brought up within the territory of Chhattisgarh. The rejection of the caste certificate was predominantly on the ground that the Additional Tehsildar did not have the jurisdiction. The petitioner claims that she was born herein, therefore, cannot be treated to be a migrant to the State of Chhattisgarh and her father was at Bhilai Steel Plant, which was a part of undivided State of Madhya Pradesh. Thereafter, after reorganization of the State in the year 2000, Bhilai has fallen in the State of Chhattisgarh.

8. In the case of ***Ravikant Meshram Versus State of Chhattisgarh & ors.*** (***WPC No.4408 of 2008, decided on 27th of July, 2010***) like nature of issue was under consideration, wherein this Court has relied on the circular issued by the State and reiterated the observation of the Division Bench, which reads as under:-

"Thereafter the Government has issued another order dated 27.06.2007 wherein definition of bonafide residents of Chhattisgarh has been defined and explained which includes (i) person belonging to the central services posted at Chhattisgarh, their spouses or children; (ii) all the employees of State of Chhattisgarh, their spouses or children; (iii) Persons appointed on Constitutional or Statutory posts by President of India, their spouses or children; (iv) Corporations, Agencies, Commissions Board's, Officials/Officers/employees, their spouses or children. This Government order is to benefit the petitioners-

students with respect to bonafide residents of Chhattisgarh. We are of the considered opinion that once such persons have been recognized as residents of Chhattisgarh, then the same analogy shall apply for the purpose of the admission of children of the categories referred to hereinabove are concerned, if their caste is included in the Presidential Order."

9. Similar facts are involved in this case, which would show that the petitioner was

born & brought up in Bhilai and the father of the petitioner, who was in service, superannuated from the Bhilai Steel Plant, a Public Sector Undertaking of the Central Government. Consequently, only for the reason that the forefathers of the petitioner were resident of Nagpur, the denial to exercise of jurisdiction by the Additional Tehsildar would be illegal. The petitioner being resident of Chhattisgarh born herein, therefore, is entitled to make an application to the competent authority. Consequently, the order dated 27.05.2011 (Annexure P-7) is quashed. The petitioner shall be entitled to make afresh application to the competent authority under the Chhattisgarh Scheduled Caste, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certificate) Rule, 2013 with the relevant documents and on such application being filed, the competent authority shall consider the same on its own merits.

10. Accordingly, the petition stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu