

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 388 of 2019

(Arising out of order dated 24.07.2018 passed by learned Single Judge in WPS- 3136 of 2007)

1. State Of Chhattisgarh Through The Secretary, Department Of General Administration Mahanadi Bhawan, Mantralaya Atal Nagar, District Raipur Chhattisgarh.
2. The Secretary, High Level Caste Scrutiny Committee (In The Matter Of SC/ST Caste Certificate), Pt. Ravi Shankar Vishwavidyalaya Parisar, Raipur Chhattisgarh.

---- Appellants

Versus

Anand Masih S/o - Shri I.P. Masih Aged About 42 Years R/o - Deputy Commissioner (Land Record), Bilaspur Chhattisgarh.

-----Respondents

For Appellants/State	: Shri Vikram Sharma, Deputy Government Advocate.
For Respondent	: Shri Sunil Otmani, Advocate.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board

Per PR Ramachandra Menon, CJ

29.08.2019

1. The grievance is against the verdict passed by the learned Single Judge, whereby Annexure P-1 order dated 05.02.2007 issued by the second respondent (the High Power Caste Scrutiny Committee constituted by the State) arriving at a finding as to the caste status of the respondent was set aside, for not being in conformity with the course to be pursued in the light of the verdict passed by the Apex Court in the matter of **Kumari Madhuri Patil and another vs. Addl Commissioner, Tribal Development and Others** reported in (1994) **6 SCC 241** and the relevant provisions of law as discussed therein.

2. Heard Shri Vikram Sharma, learned Deputy Government Advocate representing the State and Shri Sunil Otwani, learned Counsel for the respondent at length.

3. Admittedly, the appeal is belated by 310 days, which is sought to be condoned by filing IA No.1/2019. The explanation offered for condonation of delay, as given in Paragraph Nos.2 to 4, are in the following terms :-

“2. That, after passing of the impugned order when the same was received by the department and the matter was deliberated & requisite opinion and sanction was sought from the concerned departmental authorities. After receipt of the approval for filing the present appeal, the same was forwarded to the officer of Advocate General & is being filed however meanwhile the period limitation for filing writ appeal got expired.

3. That, the delay in filing of the appeal occurred due to the departmental formalities and of requisite approvals from Government authorities, which is not deliberate but bonafide.

4. That, however, meanwhile there occurred a delay of 310 days because of the various internal communications regarding permission and approval, which is not deliberate, bonafide and liable to be condoned.”

4. Going by the averments, it is quite evident that no proper reason has been stated, much less anything satisfactorily, so as to condone the delay of 310 days. The particulars, which barred the way of the appellants in approaching this Court have not been mentioned. In the said circumstances, we are not inclined to accept the 'so-called explanation', which is far below anything satisfactory. Hence the application to

condone the delay is liable to be dismissed and as a natural consequence, the appeal as well.

5. Coming to the merits involved, the learned counsel representing the appellants/State submits that the High Power Caste Scrutiny Committee has considered all the relevant facts and figures before passing Annexure P/1, which however, was unfortunately omitted to be analysed properly by the learned Single Judge. To appreciate the said submission, paragraphs Nos.10 & 11 of the judgment under challenge relevant; which hence are extracted below :-

“10. Now taking into consideration the aforesaid legal position as it stands in the light of the judgments of the Supreme Court if we peruse the impugned order under challenge Annexure P-1 what clearly reflects is that the impugned order Annexure P-1 has been issued on the basis of a report submitted by the Deputy Superintendent of Police, District Janjgir-Champa to the Superintendent of Police Janjgir-Champa who in turn had forwarded communication to respondent no.2 Committee. If we read the said report of the Deputy Superintendent of Police dated 29.05.2004, it clearly reflects that all that the Deputy Superintendent of Police has mentioned in his report is that the forefathers of the petitioner do not seem to be the resident of District Janjgir-Champa but were resident of Bhatapara. Apart from the said observation, the Deputy Superintendent of Police has not stated anything so far as the caste status of the petitioner is concerned or whether the father of the petitioner or forefather of the petitioner were not belonging to “Uraon” community. It further reflects from the said report that except for the fact that the petitioner and his forefathers were not resident of District Janjgir-Champa, there does not appear to be any further

enquiry conducted either by the Superintendent of Police, Janjgir-Champa or by the concerned Superintendent of Police under whom Bhatapara comes. Moreover, there also does not appear to be any document in possession of the respondents which would reflect that the petitioner does not in fact belong to “Uraon” community or that he belongs to a different community. In the absence of a finding by the Caste Scrutiny Committee to the extent that the petitioner does not belong to a different community instead of “Uraon” community which the petitioner claims, the impugned order Annexure P-1 itself may not be sustainable.

11. Moreover, what further reflects is that the directives which have been given by the Supreme Court in the case of Kumari Madhuri Patil (supra) and which further stands reiterated in the case of Laveti Giri (supra), there does not appear to be any enquiry so far as the anthropological and ethnological traits are concerned. If we read the directives given in the case of Kumari Madhuri Patil (supra), it would reflect that there was a specific direction given to the State Authorities as to how the enquiry and investigation has to be conducted. From a plain reading of the impugned order, there does not appear to be any such enquiry instituted or conducted by respondent no.2 except for the issuance of repeated letters to the petitioner for appearing before the Tribunal and for proving that he belongs to “Uraon” community. The very fact that the State Authorities particularly respondent no.2 has not been able to reach to a conclusion as to which community or caste the petitioner belongs which itself is a sufficient proof that the petitioner has not played any fraud with the authority while obtaining the caste certificate as early as on 22.01.1981. What also cannot be brushed aside is the fact that the certificate was issued in favour of the petitioner when the petitioner was too young an age to have played mischief or fraud for the purpose of obtaining employment.”

6. Obviously the learned Single has given the reasons as to why the order under challenge is not sustainable, which admittedly was passed based on the report submitted by the Superintendent of Police. The said report did not say anything with regard to caste status, but for the place of residence of the parents.
7. After hearing the learned counsel and after going through the materials on record, we are of the view that no sustainable ground is set-forth to call for interference. The verdict passed by the learned Single Judge is within the four walls of law and is not assailable in any circumstance.
8. The learned counsel for the appellants/State submits that the dismissal of the case might not stand in the way of the appellants in pursuing further steps strictly in conformity with the relevant provisions of law and the binding precedents. Since, there is no estoppel against law, we are of the view that the right to proceed in this regard will not stand barred by virtue of the course and events before this Court.
9. With the above observation, we dismiss both the application for condonation of delay and also the appeal.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge