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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2470 of 2020**

Savitri Ram D/o- Late Shri Ram Bachan Ram, Aged About 51 Years,
R/o- Village And Post Kunwarpur, Tahsil Bharatpur, District Koriya
(Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur (Chhattisgarh)
2. District Educational Officer, Koriya, District Koriya (Chhattisgarh)
3. Sub-Divisional Officer (Revenue) Bharatpur, District Koriya (Chhattisgarh)
4. Tehsildar Bharatpur, District Koriya (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate
For State	:	Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29.10.2020**

1. The challenge in the present writ petition is to the impugned order dated 22.09.2020 Annexure P-1 passed by the District Education Officer, Koriya. Vide the said order, the respondents have directed the petitioner to produce her permanent caste certificate by 31st of October, 2020 failing which appropriate disciplinary action would be taken against her.

2. According to the petitioner, since her berth she has been residing in the state of Chhattisgarh. She has received her entire education from the state of Chhattisgarh. The petitioner had applied for a caste certificate before the competent authority i.e. the Tahsildar, Bharatpur, District Koriya who in turn issued a caste certificate on 09.11.1989. Subsequently, the petitioner applied for the post of Shiksha Karmi Grade-III and got selected and was appointed on the said post vide order dated 25.07.1998. The petitioner had obtained employment on the basis of the said caste certificate that was issued in her favour on 09.11.1989 and she continues on the said post and is presently discharging the duties as a Teacher LB. Right from 1998 till now, for a period of 22 years, the petitioner has been discharging her duties uninterruptedly and without any complaint so far as her performance is concerned. However, abruptly now the respondents have issued the impugned notice to the petitioner asking her to produce permanent caste certificate or else the Department would be initiating appropriate disciplinary action against her.
3. Contention of the learned counsel for the petitioner is that there is no requirement as on date asking the petitioner for producing permanent caste certificate when she has already one which was issued as early as on 09.11.1989. The further contention of the petitioner is that the said certificate was issued by the competent authority prescribed under the rules as it then stood. The said certificate does not disclose it to be a temporary certificate valid for a specified period and as such, in the absence of any specific period of validity prescribed, the said certificate has to be treated as a permanent caste certificate. Thus, the action on the part of the respondents in asking the petitioner to produce

a fresh permanent caste certificate is not justified, proper and legal and prayed for quashment of the same.

4. It was also the contention of the petitioner that the permanent caste certificate issued on 09.11.1989 and the employment that was obtained by the petitioner based upon the said caste certificate on 25.07.1998, both were under the erstwhile state of MP in accordance with law governing the field as it then stood. Therefore, there is no discrepancy whatsoever both so far as obtaining the caste certificate and also in obtaining the employment based upon the said caste certificate. It was further contended that there is no complaint whatsoever from any corner in respect of a doubt raised regarding the caste to which the petitioner belongs. According to the petitioner, she belongs to "Chamar" caste which falls within scheduled caste category and in the caste certificate issued by the competent authority Annexure P-2, it has been clearly mentioned that she is a Harijan belonging to "Chamar" caste. Thus, for all these reasons the action on the part of the respondents was prayed to be quashed.
5. Per contra, learned State counsel opposing the petition submits that in the year 2007, the State of Chhattisgarh had in fact framed rules which is known as Chhattisgarh Panchayat Shiksha Karmi (Bharti Tatha Seva Ki Sarte) Niyam 2007 and under the said rules, a person who avails the benefit of reservation must submit a permanent caste certificate duly issued by the competent authority. According to the State counsel, the competent authority for issuance of the permanent caste certificate is the Sub Divisional Officer and not the Tahsildar and therefore, the state authorities have issued the notice directing the petitioner to produce a fresh duly issued permanent caste certificate. According to the State

counsel, no prejudice as such has been caused to the petitioner by issuance of the said notice asking her to get the permanent caste certificate issued. In case if the petitioner is able to obtain the permanent caste certificate, the authorities would attach the same with her service record and no further action thereafter would be initiated against the petitioner so far as the caste certificate is concerned. Thus, prayed for rejection of the writ petition.

6. Having heard the contentions put forth on either side and on perusal of records, undisputedly the petitioner has a valid caste certificate issued in her favour way back on 09.11.1989 by the Court of Tahsildar, Bharatpur District Sarguja (now is under district Koriya). Another admitted factual position as it stands is the obtaining of employment based upon the said certificate on 25.07.1998 on the post of Shiksha Karmi Grade-III under Janpad Panchayat Bharatpur and for the last 22 years the petitioner has been working on the basis of the said employment. The caste certificate which the petitioner possesses was issued about 31 years back. For these 31 years after obtaining the caste certificate and also in the last 22 years after the petitioner got employment, there does not appear to be any complaint whatsoever doubting the caste status of the petitioner from any quarter whatsoever. Similarly, there is also no allegation of the petitioner having obtained employment on the basis of a fake caste certificate. There is also no dispute as regards the office of the Tahsildar, Bharatpur having issued such a certificate on 09.11.1989. Last but not least, in the caste certificate produced by the petitioner nowhere does it depict to be a temporary caste certificate valid for a specific period of time. Thus, it has to be presumed to be a permanent caste certificate issued. There

is also no dispute so far as the fact that in the year 1989 it was the Tahsildar who was authorized on behalf of the State Govt. for issuance of a caste certificate.

7. From the aforesaid undisputed factual matrix of the case this Court does not find any strong reason as to why the State authorities should insist upon the petitioner to obtain a fresh permanent caste certificate.
8. The law in this regard is by now well settled after the first landmark judgment that was passed in the case of *Madhuri Patil & Anr. v. Additional Commissioner, Tribal Development & Ors.*[AIR 95 SC 94] and all the subsequent judgments wherein it has been categorically held by the Supreme Court that only in the event of a doubt in the mind of the employer or there is a complaint on the caste status of the employee, an inquiry should be conducted by the high level committee constituted by the State Govt. In that circumstance it would only be a reference that would be made to the concerned committee for a proper inquiry which then would giving a finding.
9. The employee cannot be forced to obtain caste certificate again and again. In the instant case, there does not seem to be any verification which has been done or allegation that the caste certificate which was submitted by the petitioner was not a proper certificate or was a fake document. There is also no complaint so far as the genuineness of the certificate as also the social status of the petitioner is concerned.
10. For all the aforesaid reasons, this Court is of the opinion that the impugned notice Annexure P-1 is not proper, legal and justified and the same deserves to be and is accordingly quashed.
11. However, the right of the respondents stands reserved to take appropriate steps in the event of there being a complaint so far as the

social status of the petitioner is concerned or in respect of the genuineness of the caste certificate that the petitioner has produced for obtaining employment and for which the State Govt. would be free to initiate appropriate steps in accordance with law governing the field.

12. The writ petition accordingly stands allowed.

**Sd/-
P. Sam Koshy
Judge**