

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10505 of 2019

- Smt. Thanwarin Kotendra W/o Aghanoo Kotendra Aged About 44 Years R/o Hathra (Village) And Post Dighwadi, Tehsil Manpur, Police Station Khadgaon, District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, General Administrative Department, Mantralay, Mahanadi Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh.
2. High Power Certification Scrutiny Committee Through Its Member Secretary / Commissioner, Block - 4d, Ground Floor, Indravati Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh.
3. The Secretary Department Of Tribal And Scheduled Caste Development, Mantralay, Mahanadi Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh.
4. The Collector District Balod Chhattisgarh.
5. Secretary Department Of School Education, Mantralay, Mahanadi Bhavan, Nava Raipur, Atal Nagar, Chhattisgarh.

--- Respondents

For the Petitioner : Mr. Rohit Sharma, Advocate

For the State/Respondents : Mr. Alok Bakshi, Addl. Advocate General

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23-01-2020

1. Learned counsel for the petitioner would submit that prior to the Rules of *The Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward classes (Regulation of Social Status certification) Rules, 2013* (for short "Rules of 2013") the petitioner was issued a certificate of 'Mahara' Community, which is covered under "Scheduled Tribe". It is contended that the state has come out with a notification dated 30.12.2017 wherein it is stated that the

phonetic variation of 'Mahar' community has taken within the sweep of word 'Mahara'. Consequently, the notice dated 19.09.2019 (Annexue P-1) issued to the petitioner again to verify those certificates would be against the spirit of notification itself as the said notification of 30.12.2017 and the Rules of 2013 cannot go together in the particular facts of this case. He would submit that as a consequence of issuance of show cause notice to the petitioner, he has filed reply to consider the notification of 2017 and has also prayed that a writ petition bearing WPC No. 316 of 2018 wherein the said notification is under challenge, the proceeding of enquiry may be kept in abeyance. It is further contended that similar benefit of 'Mahara', the phonetic variation advantage has been granted to one Deepak Kumar Baghel by order dated 01.06.2019, which is filed as *Annexure P-5* therefore, similar benefit may be granted to the petitioner.

2. Learned State Counsel would submit that the entire contention of the petitioner would be duly considered and it goes without saying that benefit of Article 14 shall be decided in accordance with law.
3. Perused the documents. Prima facie it appears that the petitioner is apprehended of the fact that the benefit of 2017 notification may not be given to the petitioner. The document dated 28.08.1989 on the basis of which the proceeding appears to have been initiated shows that the forefathers of the petitioners wrote the word 'Mahara' and thereafter notification of phonetic variation has come on 30-12-2017. In any case, if the notification of 30.12.2017 has come subsequently then the petitioner shall have all the right to rest upon the same if it favours to him. Consequently, the High Powered Scrutiny Committee, respondent

no.2 shall take into consideration the benefit of phonetic variation and the fact thereof, which emerged after the notification dated 30.12.2017 has come into being. It goes without saying that if the benefit has been extended to a similar placed person then the petitioner shall also be entitled for the same. The authorities will decide the application keeping in mind the observation made (supra).

4. With such observation, this writ petition stands disposed of.

Sd/-

**GOUTAM BHADURI
JUDGE**