

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.6774 of 2010**

- Smt. Nishi Bala Masih, W/o Shri Jayawant Masih, aged about 44 years, R/o Vasundhara Nagar, Bhilai, Distt. Durg (C.G.)

----- Petitioner**Versus**

- 1.State of Chhattisgarh through Secretary, Department of Energy, Mantralaya, D.K.S. Bhavan, Raipur (C.G.)
- 2.Uccha Stariya Chhanbin Samiti (In the Matter of SC/ST Caste Certificate) through its Secretary, Pt. Ravi Shankar Vishwavidyalaya Parisar, Raipur (C.G.)
- 3.Chhattisgarh State Public Distribution Company Limited through its Secretary, CSPDCL, Danganiya, Raipur (C.G.)

----- Respondents

For Petitioner	Mr. Ankit Singhal, Advocate
For Respondent-State	Mr. Animesh Tiwari, Dy. AG

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****12/08/2021**

1. Proceedings of this matter have been taken up through Video Conferencing.
2. The petitioner by way of this writ petition calls in question the legality, validity and

the correctness of the order dated 29.03.2010 (Annexure-P/1) passed by the respondent No.2, whereby the State Level Caste Scrutiny Committee has taken a decision that the petitioner does not belong to the Scheduled Tribe Community and the caste certificate issued in favour of the petitioner holding her to be the member of the Scheduled Tribe Community has been directed and treated to be cancelled and further action has been directed against her. The petitioner also calls in question the order dated 22.07.2010 (Annexure-P/2) passed by the respondent No.3, whereby the petitioner has been terminated.

3. On the last of hearing, Mr. Ankit Singhal, learned counsel for the petitioner, submitted that the copy of vigilance investigation report has not been served to the petitioner and for participating and producing evidence in the hearing scheduled on 7.12.2009, the notice was served to her on 15.12.2009, therefore, she could not appear on the said date of hearing to lead evidence. Thereafter, this Court directed the State counsel to

inform the Court with regard to the aforesaid true facts.

4. Today when the matter is taken up for hearing, Mr. Singhal reiterates the submission made on the last date of hearing. On the other hand, Mr. Animesh Tiwari, learned State counsel, would submit that the copy of the vigilance investigation report has been served to the petitioner on 30.07.2009 in her official address/official capacity. He would further submit that with regard to the hearing scheduled on 07.12.2009, the notice was handed over to the respondent No.3 Department for serving it to the petitioner for hearing, but the notice was served to the petitioner with a delay on 15.12.2009, therefore, the petitioner could not be heard on 07.12.2009 and she has been shown to be absent on 07.12.2009.
5. The fact remains that since the case was fixed for evidence of the petitioner on 07.12.2009 but the notice was served to her on 15.12.2009 by the respondent No.3 with a delay, therefore, she could not appear on 07.12.2009 and could not adduce evidence and thereby the

petitioner has suffered prejudice, as the opportunity to lead evidence before the Committee was closed on 07.12.2009 itself.

6. Since the question of issuance of caste certificate in favour of the petitioner is to be examined, the evidence of the petitioner is absolutely necessary according to her, therefore, in the considered opinion of this Court, due to closure of opportunity to lead evidence on 07.12.2009, the petitioner has suffered prejudice, therefore, the impugned order dated 29.03.2010 (Annexure-P/1) is hereby set aside and the matter is remitted to the Caste Scrutiny Committee for giving an opportunity of hearing to the petitioner to lead evidence and thereafter to take final decision in accordance with law within 3 months from the date of receipt of copy of this order.
7. The writ petition is allowed to the extent indicated herein-above above. No order as to cost (s).
8. It is made clear that this Court has not

expressed any opinion on the merits of the case.

Sd/-
Sanjay K. Agrawal
Judge

Nirala