

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through video conferencing****REVP No. 50 of 2021**

1. Anand Masih S/o Shri I. P. Masih Aged About 56 Years Working As Deputy Commissioner (Revenue), Raipur Division, R/o - 125, Paradise Complex, Borsi Bhata, Durg, Police Station Mohan Nagar, District Durg, Chhattisgarh.

---- Applicant**Versus**

1. State of Chhattisgarh Through Its Secretary, Department of General Administration, Mahanadi Bhawan, Mantralay, 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, Present Address - Block D Indravati Bhavan, Naya Raipur, Atal Nagar, Raipur, Chhattisgarh.

---- Respondents

For Applicant	-	Shri Vinay Pandey, Advocate.
For Respondent/State	-	Shri Sudeep Agrawal, Dy. Advocate General.

Hon'ble Shri Prashant Kumar Mishra, Ag.Chief Justice.**Hon'ble Shri Parth Prateem Sahu, J.****Order On Board****By****Hon'ble Shri Prashant Kumar Mishra, Ag.Chief Justice.****16-06-2021**

1. This review application is directed against order dated 29-08-2019 in WA No. 388 of 2019, wherein while dismissing the writ appeal preferred by the State, this Court reserved liberty in favour of the respondents to proceed in accordance with law as

there is no estoppel against law and the respondents right to proceed in this regard will not stand barred by virtue of the course and events before this Court.

2. Petitioner's writ petition bearing WPS No.3136 of 2007 calling in question, the decision of the High Power Caste Scrutiny Committee to cancel petitioner's caste status certificate, has been allowed. The writ appeal was preferred against the order passed by the learned Single Judge on 24-07-2018.
3. It is argued that once having dismissed the State's application for condonation of delay, merits of the matter should not have been gone into, therefore, liberty given to the State in paragraph 8 of the order under review is an error apparent on the face of the record.
4. We have heard learned counsel for the applicant at length.
5. It is true that in paragraph 4 of the order, the prayer for condonation of delay was rejected and consequently, the appeal was dismissed. However, in the later part of the order, after examining the impugned order on merits, this Court was again of the view that the order passed by the learned Single Judge does not suffer from any infirmity. The further observations in paragraph 8 of the order reserving liberty in favour of the State to take steps strictly in conformity with the relevant provisions of law, has nothing to do with the merits of the matter.
6. It is to be seen that interference made by the learned Single Judge with the order passed by High Power Caste Scrutiny Committee was due to procedural illegality committed by the Committee while making enquiry against the applicant. It is not a case where there is positive finding about the applicant's caste status. If an enquiry was not properly done, nothing would prevent the High Power Caste Scrutiny Committee to make an enquiry in accordance with law. Merely because the order passed

by the High Power Caste Scrutiny Committee was interfered due to procedural defects in the enquiry, the doors cannot be shut for the Committee not to proceed with the enquiry. Doing so would amount to giving premium to the person enjoying the false caste certificate. It is to be decided by the Committee as to whether the certificate is lawful/genuine or not.

7. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. (See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC 455, Lily Thomas etc. v. Union of India and others, AIR 2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others, (2005) 2 SCC 332, and Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.
8. There being no error apparent on the face of the record, no case for review of order dated 29-08-2019 passed in WA No.388 of 2019 is made out.
9. It is accordingly dismissed.

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(Parth Prateem Sahu)
Judge

Amardeep