

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5415 of 2020**

Baban Ramchand Sendre S/o Late Ramchand Sendre Aged About 57 Years Working As Assistant Director, Directorate Of Handloom, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh , R/o Suvidha Vihar, Mahavir Nagar, Purena Raipur, District Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Gramudhyog, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District Raipur, Chhattisgarh
2. Director Department Of Gramudhyog, Indrawati Bhawan,mantralaya Atal Nagar, Raipur, District Raipur, Chhattisgarh
3. Secretary, Department Of General Administration, Government Of Chhattitsgarh, Mahanadi Bhawan, Mantralaya Atal Nagar, Raipur, District Raipur, Chhattisgarh
4. State Level Schedule Tribe Scrutiny Committee 2nd Floor, Satpura Bhawan, Bhopal, District- Bhopal, Madhya pradesh

---- Respondents

For Petitioner	:	Mr. Vishnu Koshta with Mr. Shobhit Koshta, Advocates
For State	:	Mr. Sudeep Verma, Dy. GA

Hon'ble Shri Justice P. Sam Koshy
Order on Board

21/01/2021

1. The challenge in the present writ petition is to the impugned show cause notice issued by the respondent No.4 Annexure P-5 dated 20.11.2020. Respondent No.4 has issued a show cause notice to the petitioner for enquiry in respect of the Caste Status of the petitioner.

2. Contention of the petitioner is that in the present writ petition first of all the respondent No.4 does not have a jurisdiction to conduct an enquiry in respect of an employee who is presently working under the jurisdiction of the State of Chhattisgarh and also is working within the territories of the State of Chhattisgarh. Second contention of the petitioner is that preliminary report submitted by the respondent no.4 shows that they are predetermined to hold that petitioner's Caste certificate is not proper and there is all likelihood that respondent State may abruptly cancel the appointment of the petitioner based upon the said report of the respondent No.4 Committee.
3. Further contention of the petitioner is that the State Government initially vide circular dated 01.10.2011 had taken a policy decision to protect the employment of those persons who have obtained employment on the basis of caste certificate reflecting their caste to be that of Halba Koshti treating them to be employees under the General Category. The said circular was made applicable upon those employees who were appointed prior to 28.11.2000. According to the petitioner the State Government has reiterated its stand recently again by issuing another circular in this regard based upon two recent decision of the Supreme Court vide Circular dated 03.06.2020 and whereby they have reiterated enforcement of the earlier circular dated 01.10.2011 by granting protection to the employees appointed prior to 28.11.2000.
4. Learned counsel for the State at this juncture submits that writ petition as of now is premature because there is no such threat of any nature to the petitioner's employment. Moreover, there is no cause of action as of now arisen and that the dispute raised is only that of a show cause notice and there is yet to be a finding of fact to be provided by the Committee and therefore the writ petition may not be sustainable.

5. Given the said submissions by the counsels appearing on either side the present writ petition at this juncture stands disposed of holding that since the impugned notice is only a show cause notice, let petitioner contest the proceeding before the respondent No.4 on its own merits. However, in the event of any adverse order by the respondent no.4, the respondent State herein who are the employer of the petitioner as of now intends to take a decision it is expected and directed that the respondent State shall take into consideration both the circulars of the State Government dated 1.10.2011 as also circular dated 3.6.2020 while taking a decision in respect of the petitioner's service conditions.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit