

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.3273 OF 2002

Tumanath Nayak

....

Petitioner(s)
Mr.N.C.Pati,Adv.

-versus-

Nabin Kumar Pipali and others

....

Opposite Party(s)
Mr.S.Mishra,ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER

27.09.2022

Order No.

06.

1. Heard learned counsel for the Parties.
2. Nobody appears on behalf of private Opposite Parties in spite of sufficiency of notice and appearance of a counsel on their behalf.
3. Short question involves, a proceeding under Section 3(A) of Regulation II of 1956 was initiated involving restoration of land in favour of the claimants therein. Undisputedly the claimant therein claimed that they belong to a caste of 'Jatapu' as finds place in the Presidential Notification. However by filing caste certificate, the Petitioners therein claims that caste has been wrongly recorded in the Record of Rights showing it to be 'Jatapudora'. For the proceeding under Section 3(A) of Regulation II of 1956 having been allowed, an appeal was filed and the appeal appears to have dismissed resulting filing of the Writ Petition. Both authorities believed the clear of the Petitioners therein questioning caste and allowed the claimants claim resulting filing of the Writ Petition.
4. Looking to the factual background of the case, this Court finds, undisputedly the Petitioners therein i.e. the Opposite Parties herein have a clear case through the caste certificate that they belong to the

caste of 'Jatapudora', but however, they have claimed that their caste has been wrongly shown in the caste certificate granted in their favour.

5. In the above background of the matter and keeping in view the findings of both the Courts on the caste 'Jatapu' and 'Jatapudora', this Court here takes into account the schedule XII of the Presidential Notification involving Odisha and finds at serial No.25 therein the caste brought under the notification remains 'Jatapu'. This Court opines, for the clear indication of the caste in the Presidential Notification, the competent authority has, however, no jurisdiction to take up the issue involving the caste of the Petitioner and decide against the prescription in the notification.

6. In the circumstance, this Court finds both the authorities have acceded their jurisdiction in deciding such issue. This Court finds, the orders at Annexures-1 & 2 are not sustainable in the eye of law. The same is, therefore, set aside.

7. The Writ Petition succeeds.

(Biswanath Rath)
Judge

Swarna