

**IN THE HIGH COURT OF ORISSA, CUTTACK**

**W.P.(C) No.3373 of 2022**

In the matter of an application under Articles 226 & 227 of the  
Constitution of India.

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Namita Sagaria

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Petitioner

-Versus-

State of Odisha & others .....

Opp. Parties

For Petitioner:

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M/s. Anirudha Das,  
G.P. Panda, A. Das,  
S.C. Mishra & A. Sahoo

For Opposite parties:

Mr. D.K. Mohanty,  
Addl. Standing Counsel

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सत्यमेव जयते  
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ORISSA

P R E S E N T:

**THE HONOURABLE MR. JUSTICE BISWAJIT MOHANTY**

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Date of Hearing: 19.05.2022

Date of Judgment: 20.05.2022  
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**B. Mohanty, J.** The petitioner has filed the present writ petition  
praying for quashing of the order dated 22.01.2022 under  
Annexure-2 whereby, her Caste Certificate issued under  
Annexure-1 was cancelled.

**2.** The case of the petitioner is that, she happens to be a permanent resident of village Kusumi under Tentulikhunti Police Station in the district of Nabarangpur. She applied for issuance of a Caste Certificate in her favour before the Tahasildar, Tentulikhunti (opposite party No.3). The opposite party No.3 conducted the enquiry through concerned Revenue Inspector and being satisfied about the caste of the petitioner as “Dambo” which is recognized as Scheduled Caste under Constitution (Scheduled Castes) Order, 1915 issued Caste Certificate in her favour on 18.01.2022 under Annexure-1. Suddenly without any rhyme and reason and without issuing any notice to the petitioner to show cause and without causing any enquiry, the Tahasildar, Tentulikhunti abruptly intimated cancellation of the above noted Caste Certificate vide letter dated 22.01.2022 issued under Annexure-2 to the Election Officer-cum-Block Development Officer, Tentulikhunti. The petitioner came to know about such cancellation from the Office of Block Development Officer, Tentulikhunti. It is the further case of the petitioner that the father of the petitioner Gangadhar Harijan belongs to “Dombo” caste, which would be clear from the Record of Rights issued under Annexure-3 series. Similarly, the title “Sagaria” which happens to be the title of the husband of the

petitioner also comes under “Dombo” caste as would be clear from the Record of Rights issued in favour of the ancestors of the husband of the petitioner under Annexure-3 series. Thus all throughout the petitioner belongs to “Dombo” caste and also married in the Dambo caste and as such there was no reason available with the opposite party No.3 for cancelling her caste certificate, which was rightly issued under Annexure-1 without giving any notice to her. Such cancellation is politically motivated as she was taking part in the last panchayat election and was issued in haste and since the same has been passed in violation of principles of natural justice, the same should be quashed.

**3.** In the counter affidavit filed by the opposite party Nos.2 & 3, the stand of the said opposite parties is that the petitioner had applied for a Scheduled Caste Certificate on 20.12.2021. Since after marriage, she is presently living in village Kusumi, in order to ascertain the birth caste of the applicant, such application was forwarded to the Tahasildar, Nabarangpur. After receipt of report from the Tahasildar, Nabarangpur along with the report of Revenue Inspector, Chikili and basing on the said reports, the certificate was approved on 18.01.2022. However, on 18.01.2022, an objection under

Annexure-A/2 was received from the villagers of Kusumi to the effect that the petitioner and her family members are practicing Christianity, Christian customs and traditions so she cannot belong to scheduled caste as her present religion is Christian. Accordingly, on 20.01.2022, the opposite party No.3 along with the Revenue Inspector, Anchalguma went to village Kusumi to do a preliminary enquiry into the objection filed by the villagers. There they recorded the statements of some villagers. Such statement has been filed as Annexure-B/2 and accordingly, the application of the applicant which was approved on 18.01.2022 was reverted back i.e. was put on hold and now the present status of the case is that the application of the petitioner is under process and final order in the case has not yet been passed. After following the due procedure, the case will be disposed of. When on 22.01.2022, the Block Development Officer-Cum-Election Officer, Tentulikhunti sought for a clarification on the genuineness of the certificate produced by the petitioner, the impugned letter under Annexure-2 was issued.

**4.** In the rejoinder affidavit filed by the petitioner, she has stated that Section 7(1) of the Odisha Scheduled Castes, Scheduled Tribes and Backward Classes (Regulation of Issuance

and Verification of Caste Certificates) Act, 2011 (for short 'the Act') makes it clear that only the Scrutiny Committee constituted under the said Act can cancel and confiscate the certificate after enquiry into the correctness of such certificate and after giving the person an opportunity of being heard in the matter. Since the cancellation intimation order has been issued under Annexure-2 without following the above noted mandatory provisions, the same ought to be set aside.

**5.** Heard Mr. A. Das, learned counsel for the petitioner and Mr. D.K. Mohanty, learned Additional Standing Counsel.

**6.** The undisputed facts in the case are as follows:

On 20.12.2021, the petitioner had applied for her Caste Certificate before opposite party No.3. On receipt of such application, her application was forwarded to the Tahasildar, Nabarangpur and Revenue Inspector, Chikili. After the report was received from the Tahasildar, Nabarangpur and Revenue Inspector, Chikili on 17.01.2022, the Caste Certificate under Annexure-1 was issued on 18.01.2022. The stand of opposite party Nos.2 & 3 is that, it was only approved on 18.01.2022 and later on, on account of objection by the villagers on the same day, it was put on hold with the present status that the application of the petitioner is still under process, cannot be

accepted as in para-8 of their counter, they themselves have averred that the certificate was produced by the petitioner before the Block Development Officer-Cum-Election Officer, Tentulikhunti, who sought for a clarification about the genuineness of the said certificate. Further such plea flies in the face of the certificate enclosed at Annexure-1. Therefore, this Court is not willing to accept the contention of opposite party Nos.2 & 3 that the application of the petitioner which was only approved was put on hold after receiving the objection from the villagers. Further, the language of Annexure-2 also clearly indicates that the Scheduled Caste Certificate issued to the petitioner has been reverted back which may be treated as cancelled. A combined reading of both the Annexures-2 & 1 would show that the Caste Certificate under Annexure-1 was issued to the petitioner after approval and later on, on account of some complain, such certificate was cancelled. In Annexure-2 though the opposite party No.3 has used the phrase “reverted back” however, the same also makes it clear that the same be treated as cancelled. Thus, the opposite party No.3 has tried to obfuscate the issue.

**7.** Now the question arises whether such cancellation under Annexure-2 can be sustained legally. No documentary

evidence has been filed on behalf of opposite party Nos.2 & 3 to show that prior to communicating cancellation order under Annexure-2, the petitioner was given an opportunity of hearing or was given any show cause by the appropriate authority, which has been authorized to issue such cancellation order. In this context, let us refer to the provisions of Sections 6 & 7 of “the Act” which are quoted hereunder:

“6. (1) The Government shall constitute by notification in the Official Gazette, one or more Scrutiny Committees for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committees.

(2) The appointing authority of the Government, Central Government, Local Authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions may make application, in such form and in such manner as maybe prescribed, to the Scrutiny Committee concerned for the verification of the Caste Certificate, if any doubt arises about the genuineness of the Caste Certificate produced by any person to get any benefit on the basis of such Certificate:

Provided that the Scrutiny Committee shall also have the power to verify suo-motu the genuineness of a Caste Certificate issued by the Competent Authority:

Provided further that the person whose Caste Certificate has been subjected to verification shall not be debarred to avail the benefit nor shall discontinue to avail the benefit until the Caste Certificate is cancelled by the Scrutiny Committee.

(3) The Scrutiny Committee shall follow such procedure for verification of the Caste Certificate and adhere to the time limit for verification and grant of validity certificate as may be prescribed.

7.(1)Where, before or after the commencement of this Act, it comes to notice that a person not belonging to any of

the reserved category has obtained a false Caste Certificate to the effect that either himself or his children belong to such reserved category, the Scrutiny Committee may, suo-motu or otherwise, call for the record and enquire into the correctness of such Certificate and if it is of the opinion that the Certificate was obtained fraudulently, it shall, by an order, cancel and confiscate the Certificate by following such procedure as maybe prescribed after giving the person concerned an opportunity of being heard and communicate the same to the concerned person and the concerned authority, if any.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High Court under article 226 of the Constitution of India.”

A perusal of section 6 of the ‘Act’ makes it clear that only Scrutiny Committee constituted under ‘the Act’ has been empowered to verify the genuineness of the caste certificate. For such purpose as provided under Sub-Section (1) of Section 7 of ‘the Act’ when it comes to notice that a person, who does not belong to any of the reserved category has obtained a false Caste Certificate, then the Scrutiny Committee can suo-motu or otherwise call for the records and enquire into the correctness of such certificate and after giving the person concerned an opportunity of being heard can cancel or confiscate the certificate and communicate the same to the person concerned and the concerned authority, if any. In this case, there is nothing to show that prior to issuance of cancellation communication under Annexure-2, the above noted provisions

of law have been followed. Thus there has been a gross violation of the provisions of law and principles of nature justice as contained therein. Even if the above noted provisions were not there, then also the Caste Certificate under Annexure-1 could not have been cancelled atleast without giving an opportunity of hearing to the petitioner and without issuing a show cause containing the details of allegations made against her as such cancellation certainly visits the petitioner with civil and evil consequences. In any case, the above noted provisions of law have been clearly violated in the present case inasmuch as the cancellation order has not been passed by the Scrutiny Committee as the said committee is only authorized to verify the genuineness of such certificate and issue cancellation order. Thus the impugned communication under Annexure-2 has been issued without jurisdiction as after coming into force of 'the Act', Tahasildar, Tentulikhunti (opposite party No.3) has no jurisdiction to cancel a Caste Certificate. Thus, there has been a total non-application of mind by the opposite party No.3 while communicating the cancellation of Annexure-1 under Annexure-2. In such background, this Court has no hesitation in quashing the communication under Annexure-2 since it is a product of

arbitrary exercise of power. Accordingly, the impugned communication is hereby quashed.

**8.** However, if anybody has any grievance relating to the genuineness of the Caste Certificate issued in favour of the petitioner, an appropriate motion as permitted under “the Act” can be made before the Scrutiny Committee, who in turn can redress such grievance in accordance with law.

**9.** Accordingly, the writ petition is disposed of.

**Orissa High Court, Cuttack**  
The 20<sup>th</sup> of May, 2022 /Prasant



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**Biswajit Mohanty, J.**