

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W/P.(C) No.1834 of 2017
(Through hybrid mode)**

Nirmal Ch. Behera

....

Petitioner

Mr. S.B. Mohanty, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. Y.S.P. Babu, AGA

CORAM: JUSTICE ARINDAM SINHA

**Order
No.**

**ORDER
20.12.2022**

12. 1. Mr. Mohanty, learned advocate appears on behalf of petitioner and submits, his client has challenged order dated 8th December, 2016 made by State Level Scrutiny Committee in cancelling his client's caste certificate. He wants to rely on documents that could not be relied upon before the Committee. He submits, such documents demonstrate that his client belongs to a caste as covered within caste 'Kaibarta'.
2. Mr. Babu, learned advocate, Additional Government Advocate appears on behalf of State and submits, petitioner belongs to caste 'Girgiria' and documents disclosed by him are of no consequence. On query from Court he submits, the documents disclosed were not before the State Level Committee and hence not taken notice of.

3. The first document is **judgment dated 5th November, 1979** by a Division Bench of this Court in **OJC no.247 of 1978 (Narayan Behera v. State of Orissa and others)**. Paragraph-8 from the judgment is extracted and reproduced below.

“8. Adopting the substance of the ratio, it should follow that when there is no community known as Dhibara as such and Dhibara essentially refers to a profession, Kaibartas and Keutas who are traditionally accepted to belong to Dhibara profession should be taken as included in the term Dhibera.”

Also disclosed and relied upon by petitioner is circular dated 20th July, 1981. Paragraph-2 from the circular is reproduced below.

“2. In view of the above judgment of the High Court, Keuta, Kaibarta and Dhibara communities have to be treated as synonymous names of ‘Dewar’ community which has already been specified in the Scheduled Castes list in relation to the State of Orissa, But formal inclusion of these names in the list of Scheduled Castes can only be done when a legislation is enacted by Parliament in this regard.”

With reference to above circular, yet another circular dated 23rd April, 1982 was issued saying that **Narayan Behera** (supra) shall take effect from date of the judgment, i.e., 5th November, 1979. Cancelled caste certificate is dated 8th September, 1981.

4. It is clear that the documents disclosed and relied upon by petitioner were not before the State Level Scrutiny Committee. Since, it is a matter of cancellation of caste certificate already made and consequently petitioner dismissed from service, ends of justice require consideration of these documents by the Committee. Impugned final order dated 8th December, 2016 is set aside for restoring the Fake Caste Certificate Case no.1066 of 1981 to its file, for the Committee to consider aforesaid and other documents disclosed by petitioner on additional affidavit dated 3rd August, 2022. Petitioner will produce this order before the Committee along with copy of said affidavit. The Committee will thereupon proceed to adjudicate and dispose of the fake caste certificate case expeditiously and positively within two months from date of communication.

5. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks