

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.229 of 2017

Anama Charan Naik

....

Appellant

Mr. Asutosh Sahoo, Advocate

-versus-

State of Odisha and others

....

Respondents

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

17.10.2022

Order No.

- 03.
1. The challenge in the present writ appeal is to an order dated 28th June, 2017 passed by the learned Single Judge disposing of W.P.(C) No.10819 of 2017 filed by the present Appellant, challenging to an order dated 12th November, 2015 passed by the State Level Scrutiny Committee rejecting the plea of the present Appellant that he belongs to the 'Dambo' schedule caste (SC).
 2. The claim of the Appellant was that since his adoptive father belonged to the above SC, he too was an SC belonging to the said caste.
 3. The SLSC on a thorough examination of the matter came to the conclusion that the Appellant belonged to the 'Kumbhara' community and not 'Dambo' and further concluded that the Appellant "has forged and manipulated his caste identity to avail the benefit meant for SC people."

4. The learned Single Judge has after noting the disputed questions of fact, which obviously could not be examined by the learned Single Judge, relegated the Appellant to the remedy in the Civil Court in order to establish his claim that he belongs to be Dambo SC caste since he was the adopted son of a person belonging to the SC.

5. Learned counsel for the Appellant relied on the decision of the Supreme Court in ***Kumari Madhuri Patil v. Additional Commissioner, Tribal Development AIR 1995 SC 94*** to urge that the question whether the order passed by the SLSC is correct can be decided and ought to have been decided only by the learned Single Judge in exercising the jurisdiction under Article 226 of the Constitution and ought not to have relegated the Appellant to the remedy in a Civil Court.

6. The Court finds that in the aforementioned decision in ***Kumari Madhuri Patil (supra)***, the question whether as a result of adoption, a person acquires the same caste as the adopted father was not under consideration. Secondly, it does not appear from the facts in ***Kumari Madhuri Patil (supra)*** that there was an any objection raised that the SC certificate had been obtained by manipulation, fraud and forgery.

7. These are disputed questions of fact, which cannot be properly adjudicated in a writ jurisdiction. Consequently, the Court is unable to find any error having been committed by the learned Single Judge in relegating the Appellant to the Civil Court.

8. The appeal is accordingly dismissed, but in the circumstances, with no orders as to costs. The interim order passed earlier stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

M. Panda/S.K. Guin