

Narendra Kumar Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Jul-21-2008

Judge : R.M. Lodha, C.J. and Kishore K. Mandal, J.

Appellant : Narendra Kumar

Respondent : The State of Bihar and ors.

Judgement :

1. The petitioner claims to be a public spirited citizen. He holds the post of State General Secretary, All India Confederation of SC/ST organization (Regd), Bihar State Committee, Patna. His prayer in the writ petition is for quashing the resolution dated 30th August, 2007 contained in memo No. 2950, whereby the State government has taken decision to constitute a 'Rajya Maha Dalit Aayog'. The petitioner has also prayed for quashing the consequential order/notification dated 20th September, 2007 appointing the Chairman and members of that Commission.

2. The whole thrust of argument of the counsel for the petitioner is that sub-classification or micro-classification of the Scheduled Castes notified in the Presidential Order is impermissible. Reliance is placed upon the decision of the Supreme Court in the case of E.V. Chinnaiah v. State of Andhra Pradesh and Ors. : AIR 2005 SC162 .

3. It needs no elaboration that Article 341 of the Constitution of India indicates that there can only be one list of Scheduled Castes with regard to the State and that list should include the specified castes, races or tribes or parts of or groups notified in the Presidential list. An amendment of the President's Order made under clause (i) of Article 341 can be made only by legislation by Parliament. Whenever, we talk of Scheduled Castes or wherever the reference is made to Scheduled Castes in the Constitution, it only refers to the list prepared by the President under Article 341 of the Constitution of India and there is no reference to any sub-classification or division in the said list.

4. In the backdrop of the aforesaid legal position when we consider the resolution dated 30th August, 2007, what transpires there-from is that the State government has constituted a Commission entitled 'Rajya Maha Dalit Aayog', Bihar comprising of one Chairman and four Members. The Aayog (Commission) has been constituted for the purposes of; (i) identification of the weakest amongst the Scheduled Castes in the State of Bihar from amongst the list notified in the Presidential Order; (ii) finding out the cause of the backwardness of such Scheduled Castes after studying their social and educational status and to make recommendations for eradication of their backwardness and (iii) upliftment of social and educational status of such Maha Dalits and for providing employment to them.

5. We find no impediment, in the Constitution of India or any other law, for the State in constituting such Commission for the purposes notified therein. By constitution of such Commission, the State government cannot be assumed to have tinkered with the Presidential Order, namely, The Constitution (Scheduled Castes) Order, 1950, in any manner whatsoever. What is wrong if the State government constitutes a Commission to find out the causes of the backwardness of the weakest of the Scheduled Castes in the State and eradicate their backwardness by uplifting social and educational status. What is prohibited is the tinkering with the Presidential Order by the State government or making any sub-classification or micro-classification. Nothing of that sort seems to have been done.

6. We are satisfied that the writ petition is wholly misconceived and liable to be dismissed and is dismissed, accordingly. Needless to say that if at any time, on the basis of the recommendation of State Maha Dalit Aayog, the State government does any act that results in making any sub-classification or micro-classification or otherwise tinkers with the Presidential Order, it would be open for the petitioner or any other aggrieved person to approach the court for an appropriate relief.

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