

Shivajee Kumar Basak Vs. the State of Bihar and ors

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Court : Patna

Decided On : May-12-2012

Appellant : Shivajee Kumar Basak

Respondent : The State of Bihar and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case No.4232 of 2009 Shivajee Kumar Basak Versus The State Of Bihar & Or

12. 1.2012 The petitioner seeks a direction to the respondent authorities to issue case certificate of Scheduled Caste to the petitioner as he belongs to Chaupal Caste which comes in the list of Scheduled Caste as per letter dated 18.1.2007 issued by the Bihar State Personnel & Administrative Reforms Department. The petitioner states that in the year 1994 he along with his brother Ratan Kumar was granted certificate of Scheduled Caste as they were found to be belonging to Chaupal caste. He submits that in recent times fresh caste certificate is sought for in the matter of employment and as such the petitioner applied for afresh issuance of caste certificate in the year 2009. As no caste certificate was issued pursuant to his application in the year 2009, the petitioner filed the instant writ application. A counter affidavit has been filed on behalf of the State wherein it has been stated that in course of enquiry it was found that the petitioner belongs to Tanti caste which is one of the Castes in B.C. category. Counsel for the petitioner submits that his brother Ratan Kumar was also granted caste certificate of being belonging to Chaupal caste, a caste within Scheduled Caste category. The caste certificate of

his brother Ratan Kumar was cancelled in the year 2011. His brother Ratan Kumar therefore, moved this Court in C.W.J.C.No.7032 of 2011 challenging the cancellation of his caste 2 certificate. The learned Single Judge by order dated 12.5.2011 noticed that the alleged enquiry was held behind the back of the petitioner Ratan Kumar. The learned Judge was of the view that before a person is to be deprived of a benefit of long standing, he has a right to be heard, more so when the decision entails adverse consequences. The learned Judge remanded the matter to the Principal Secretary, Department of Welfare, Government of Bihar, Patna with directions to ensure the constitution of a Committee for determination of the caste status in accordance with the guidelines of the Honble Apex Court in case of Kumari Madhuri Patil & Anr Vs Addl. Commissioner Tribal Development & Ors, reported in 1994(6) SCC 24.as modified in 1997(4) SCC 27.(Director of Tribal Welfare Vs. Laveti Giri). The learned Judge thus quashed the order cancelling the caste certificate of petitioners brother Ratan Kumr whereby he was earlier declared to be belonging to Chaupal caste within Scheduled Caste category. The petitioner has filed reply to the counter affidavit filed on behalf of the State wherein he states that Chaupal are also loosely described as Tanti as on account of change of material of weaving of Chattai (Mat) and Pal (Sail). The petitioner in support of his contention refers to Annexure-8 which is a copy of Khatian, from perusal of which it would appear that Jeevan Lal son of Jauhari Lal has been described as belonging to Chapwal caste within Scheduled Caste category whereas father of Jeevan Lal namely Jauhari Lal in the same Khatian has been described as Hindu Tanti. Thus, the petitioner submits that Chaupal in the 3 area are called as Tanti. As the case of the petitioners brother namely Ratan Kumar in almost similar circumstances has been remanded to the Principal Secretary, Department of Welfare, Government of Bihar, Patna with directions to ensure the constitution of a Committee for determination of the caste status in accordance with the guidelines of the Honble Apex Court, I think it would be expedient to remand this matter as well to the aforesaid Committee. As the caste certificate of the petitioner has not been cancelled up till now nor any specific order has been passed for not being belonging to Chaupal caste within Scheduled Caste category, the same would continue till the decision of the aforesaid Committee so constituted in pursuance of the order of this court passed in C.W.J.C.No.7032 of

2011 disposed of on 12.5.2011. With the aforesaid observations and directions, this writ petition stands disposed of. KHAN (S.P. Singh,J)

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