

Sudarshan S/O Gourishanka And Ors Vs South Eastern Coalfields Limited Through And Ors

Court: Chhattisgarh High Court

Date of Decision: Jan. 16, 2020

Hon'ble Judges: P.R. Ramachandra Menon, J; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: Ashok Kumar Shukla, Pranjal Shukla, Vinod Deshmukh, Sudhir Kumar Bajpai, Ghanshyam Patel

Final Decision: Dismissed

Judgement

Parth Prateem Sahu, J

1. These writ appeals are arising out of common order dated 13.04.2018 passed by learned Single Judge in Writ Petition (S) Nos.3955 of 2011 and

4728 of 2011 and in all the writ appeals, similar question is involved for consideration, therefore, they are being decided by this common judgment.

2. Facts of the appeals in nutshell, are that, the appellants secured appointment with respondent-company being relatives of land oustees. The land

oustees were of tribal community belonging to 'Uraon' and 'Gond' caste. In service books, caste of appellants has been shown as 'Ahir' (Yadav) on

account of their declaration. Complaints have been received by respondent-company and on being satisfied with the contents of complaints, charge-

sheets-cum-suspension orders have been issued to all the appellants requiring them to file their reply on the allegations/charges levelled against them

within the prescribed period. The appellants submitted their reply by pleading general denial to the allegations levelled against them.

3. Issuance of charge-sheets and initiation of departmental proceedings against the appellants were challenged by them by filing writ petitions along

with other petitioners. The other petitioners who joined the appellants in writ petition as petitioners are purchasers of the lands belonging to tribal

community showing themselves to be tribal and they secured employment as owner of the land acquired by respondent-company on the ground

amongst others that the allegation for on which charge sheet served was with respect to the caste, therefore, the enquiry officer of the department has

no jurisdiction to decide the issue of caste, but in view of the law laid down by the Hon'ble Supreme Court, it is only the Caste Scrutiny Committee

who can decide the dispute of caste of the appellants and other petitioners.

4. The learned Single Judge while deciding all the writ petitions has categorised the petitioners in two segments; one who have declared themselves to

be the relatives of the land owners belonging to scheduled tribe community and the others, who have purchased the land of tribal people showing

themselves to be of tribal community. The category of petitioner in which relationship is disputed has been dismissed, some of them are under

challenge in these appeals and the other set in which, caste of Petitioner is disputed, departmental proceedings have been directed to be kept in

abeyance and respondent-company was further directed to refer the case to Caste Scrutiny Committee to get an enquiry conducted on the issue.

5. Learned counsel appearing for the respective appellants submits that dispute of relationship and caste are intermingled, therefore, the enquiry

officer of respondent-company is not having any jurisdiction to proceed with departmental enquiry, unless and until, the Caste Scrutiny Committee

conducts an enquiry for verification of caste and gives a report. They further submit that caste dispute can only be decided by the Caste Scrutiny

Committee as held by the Hon'ble Supreme Court in the matter of Ku. Madhuri Patil and Another v. Addl. Commissioner, Tribal Development and

Others (1994) 6 SCC 241. For the aforementioned reasons, they prayed for similar relief as granted by learned Single Judge to other two petitioners in

the same impugned order, who are purchasers of lands owned by tribal and acquired by respondent-company.

6. Learned counsel appearing for the respondent-company submits that the appellants were employed being relative of land oustees, who were

belonging to Scheduled Tribe Community, whereas in their service record, the caste is shown as 'Ahir' (Yadav). The caste mentioned in service

record of appellants fall within Other Backward Class category. The charge-sheet is very specific and their relationship is questioned and not caste.

They further submit that learned Single Judge rightly differentiated the appellants' case (of relationship) and the other two persons/petitioners' (of

caste). The impugned judgment passed by learned Single Judge do not call for any interference.

7. We have heard learned counsel appearing for the respective parties and perused the record carefully.

8. Perusal of the charge-sheet would show that respondent-company received complaints against the appellants/petitioners that they have obtained job

by projecting themselves to be relatives of original land owners/land oustees who belong to persons of scheduled tribe community, whereas in service

records, it is mentioned that the petitioners' caste is 'Ahir' (Yadav) and they belong to said caste i.e. 'Ahir' (Yadav). Upon recording their satisfaction

on it, charge-sheets have been issued to appellants/petitioners separately, in which, details of imputation of charges have been mentioned.

9. One of the charge sheet-cum-suspension order issued in favour of Appellant-Sudarshan is extracted below to understand the charges levelled in a

better manner :-

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The Charges levelled against other Appellants are identical in nature.

10. Appellants/petitioners submitted their reply, which is part of the record and perusal of it, would show that they have submitted their reply by

pleading general denial and not offered any explanation on the allegations levelled against them in very specific terms.

11. From bare perusal of charge-sheets issued to appellants individually, would show that, the enquiry initiated against the appellants are not with

respect to their caste, but is with respect to relationship which the appellants have shown with original land owners/land oustees, who belonged to

persons of tribal community, whereas complaints are that the appellants do not belong to tribal community, but belong to 'Ahir' (Yadav) caste.

Ordinarily, relationship which have been shown for securing jobs treating themselves to be relatives of tribal persons, whose lands were acquired,

appellants mentioning their caste as 'Ahir' (Yadav) cannot become relative as grandson or maternal grandson except in special cases. The appellants

are required to submit their reply/explanation to the charges levelled against them in very categoric terms, but they have submitted reply by pleading

general denial of allegation without making specific pleading as to how they became relatives of original land owners/land oustees and secured jobs

being relatives of them.

12. Reply of one of Appellants namely Shrawan Kumar is extracted below :-

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38. If we compare the aforesaid situation and legal position with the facts of the present case so far as the set of 10 petitioners in the first

The reply of other Appellants are identical in nature.

13. From the contents of charge-sheet itself, it is clear that charges levelled against the appellants are purely for fraudulent act alleged against the

appellants of misrepresenting their relationship with original land owners/land oustees, who belong to scheduled tribe community. The respondent-

company by virtue of departmental enquiry initiated against the appellants have to decide the issue whether appellants are relatives of original land

owners/land oustees or not. The learned Single Judge while deciding the case projected by the appellants has held thus :

38. If we compare the aforesaid situation and legal position with the facts of the present case so far as the set of 10 petitioners in the first

category is concerned, the charge against them is in respect of the relationship that they have with the original land owner whose property was

acquired by the respondents against which the employment has been given to all these 10 petitioners. A complaint has been received in respect of

there being no relationship between the title holder and the person who has obtained the employment.

39. Such a dispute in the opinion of this Court without any doubt or hesitation is an issue which is exclusively within the domain of the employer i.e. the

respondents in the present case. The charge is doubting the relationship between the title holder and the respective petitioners and if the petitioners are

only able to produce the relationship of being either the grandson, son or the husband of the original title holder, the employees gets automatic

exoneration of the charges or else if they fail to produce the evidence, it would be considered as the petitioners have obtained the employment by

playing fraud.

40. In the given factual legal position this Court does not find any strong case made out by these 10 petitioners who fall in the first category calling for

an interference with the disciplinary proceedings initiated against them and the Writ Petition so far as these 10 petitioners are concerned stands

dismissed.

41. However, it is made clear that in the process of conducting the departmental enquiry, the respondents would not go into the veracity of the caste

status of any of these 10 petitioners. The enquiry would be confined only to the relationship between the title holder and the petitioners.

14. Perusal of the impugned order would show that learned Single Judge has already granted maximum relief which could have been granted to the

petitioners by making observation in paragraph-41, which is reproduced above. The 'Ahir' (Yadav) caste comes within the category of 'Other

Backward Classes' whereas the name and caste of original land owners/land oustees shown in the revenue records are that they belong to the

members of scheduled tribe community. These factual aspects were neither disputed nor being clarified by the appellants in their reply in very specific

terms.

15. For the foregoing reasons, we do not find any infirmity or error in the findings recorded by the learned Single Judge. The appeals being devoid of

substance, are liable to be and are hereby dismissed.

16. It is brought to the notice of this Court that the enquiry is already concluded. However, appellants will be at liberty to challenge final outcome of

the departmental enquiry proceedings, if they are aggrieved with it, in any manner.