
(2004) 04 JH CK 0012

Jharkhand High Court

Case No: Writ Petition (C) No. 519 of 2004

Harendra Prasad Gond

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: April 8, 2004

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2004) 2 JCR 425

Hon'ble Judges: Tapen Sen, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

Tapen Sen, J.

Mr. Rajeeva Sharma appears for the petitioner; Mr. Ram Kishore Prased represents the respondent No. 1; Mr. Delip Jerath represents the respondent Nos. 2, 3 and 4; respondent Nos. 5, 6 and 7 are represented by the learned Additional Advocate General and the respondent No. 8 is represented by Mr. Binod Poddar, learned Senior Advocate appearing for htm.

2. An application has been filed by the respondent No. 8 for vacating and/or modifying the order passed earlier by this Court on 30.01.2004 directing maintenance of status quo. According to the respondent No. 8 the order of status quo could not have been passed because the principal question that deals with the issue revolves around an adjudication as to whether the petitioner Is a member of the "Gond" community or not. Let it be recorded that in an earlier writ application, the petitioner had come up before this Court vide WP (C) No. 2372 of 2002 when he felt himself aggrieved by an order dated 2.03.2002 passed by the Deputy Commissioner, West Singhbhum at Chaibasa cancelling his caste certificate which had been granted on 19.11.1995 and which certified that he was a Scheduled Tribe being a member of the "Gond" community. An Hon"ble Single Judge disposed off

the writ petition and remanded the matter to the Deputy Commissioner, West Singhbhum to reconsider the case of the petitioner and to give findings/to determine the issue as to whether the petitioner was a Scheduled Tribe or not. It is in pursuance of the aforementioned directions of this Court passed on 14.05.2002 in WP (C) No. 2372 of 2002 that the Deputy Commissioner, West Singhbhum at Chaibasa passed the impugned order which has now been challenged in this writ petition.

3. Heard the parties and with their consent the writ petition itself was taken up for disposal at this stage. On going through some of the annexures brought on record and especially Annexures 13 and 15 appended to the writ petition, it is evident that "Gond" community was notified as a Scheduled Tribe through out the State of Bihar and there was no area restricting them or their community in any part of the State. Therefore, the fact that a "Gond" community is a Scheduled Tribe is not the bone of contention which is involved in this case, but the real dispute is as to whether the petitioner is a member of the community or not? Upon perusal of the order dated 18.11.2002, the Deputy Commissioner considered the claim of the petitioner and on various grounds, including the fact that the petitioner had not been able to produce any document in support of his claim, observed that the petitioner should first obtain a caste certificate from the appropriate authority of his original place of birth in Bihar. In other words, the Deputy Commissioner could not determine the issue.

4. In these circumstances, it is not possible for this Court also to give any adjudication in favour of the petitioners because this would involve entering into disputed terrains. Consequently no relief can be granted to the writ petitioner in this writ petition. However the petitioner has the liberty to move the appropriate forum including the forum indicated in the impugned order for purposes of establishing his claim that he belongs to that community. With that liberty, this writ petition stands disposed off and closed. Interim order granted 30.10.2004 is vacated. There shall be no order as to costs.