

(2010) 07 PAT CK 0188**Patna High Court****Case No:** CWJC No. 7480 of 2008

Ramesh Chandra Sinha

APPELLANT

Vs

The Union of India (UOI) and
Others

RESPONDENT

Date of Decision: July 5, 2010**Citation:** (2011) 1 PLJR 385**Hon'ble Judges:** Shiva Kirti Singh, J; Birendra Pd. Verma, J**Bench:** Division Bench**Final Decision:** Dismissed**Judgement**

Shiva Kirti Singh and Birendra Prasad Verma, JJ.

Heard learned Counsel for the Petitioner and learned Counsel for the Union of India.

2. The relevant facts are not in dispute. The Petitioner was appointed to the post of EDBPM, Rupauli in the district of Muzaffarpur as a Scheduled Tribe candidate vide order dated 26.2.1997. This appointment was made on the basis of caste certificate issued by District Welfare Officer which in turn had been issued on the recommendation of B.D.O., Saraiya that the Petitioner belonged to Kharwar community which falls in ST category. Sometime after the appointment a complaint was received that the Petitioner did not belong to the caste Kharwar and is not a member of ST community. The matter was reported by senior officers of Post Office to the District Magistrate, Muzaffarpur who made a detailed enquiry and found that the certificate of caste produced by the Petitioner was false. As a consequence, the District Magistrate, Muzaffarpur cancelled the said certificate by an order dated 10.10.1998. Thereafter, a show-cause notice was issued to the Petitioner and after considering his reply, the Director, Postal Services passed an order dated 4.1.2000 whereby Petitioner's appointment was cancelled for the reason that the caste certificate showing him as a member of ST itself has been cancelled by the District Magistrate, Muzaffarpur after enquiry.

3. Petitioner challenged the order dated 4.1.2000 through O.A. No. 55/2000 before Central Administrative Tribunal, Patna Bench, Patna. That application has been dismissed by the impugned order dated 22nd September, 2005.

4. learned Counsel for the Petitioner has submitted that the District Magistrate, Muzaffarpur had erred in canceling the certificate by his order dated 10.10.1998 and against such cancellation the Petitioner has preferred a representation before the District Magistrate in 1998 itself and the same is still pending.

5. It is the case of the Petitioner that simply because he has challenged the order of cancellation of caste certificate through his representation, earlier caste certificate should be treated as valid and no interference should be made with the order appointing him to the post in question as a ST candidate. Considering the entire facts and circumstances and even the submission that Petitioner's representation is still pending, we are satisfied that no error can be found with the order terminating Petitioner's service and the order of the Tribunal dismissing his application until Petitioner succeeds in his challenge to the order of the District Magistrate and getting his earlier caste certificate affirmed or restored. For that the Petitioner has so far taken no effective steps by approaching any competent court or authority. Mere pendency of the representation before District Magistrate, Muzaffarpur is not found to be sufficient for holding that earlier caste certificate of the Petitioner which has been subsequently found to be false stands restored.

6. As a result of the aforesaid discussions and findings, we find no merit in this writ petition. The same is accordingly dismissed but without any order as to costs.