

Satyaveer Singh v. State of Rajasthan & Ors.

Date of Order :: 30th June, 2009

HON'BLE MR.JUSTICE GOVIND MATHUR

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On being recruited as Constable on 21.11.1994 against a vacancy reserved for Scheduled Tribes the petitioner become member of Rajasthan Police. A memorandum as per provisions of Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 was served upon him with an allegation for procuring appointment on basis of a false caste certificate. In response to the memorandum aforesaid, the petitioner made an effort to explain

the respondents that he belong to "Dhanka" community i.e. Scheduled as Tribes Caste under Gazette of India extraordinary Part-II dated 20.9.1976. He also asserted that the certificate issued by the competent authority declaring him as a member of Scheduled Tribes was an evidence ample to prove his belonging. The disciplinary authority being not satisfied with the explanation so given, appointed an inquiry officer by an order dated 29.1.2008 to make necessary inquiry relating to the allegation levelled. The inquiry officer submitted his report on 30.7.2008 holding the petitioner guilty for a misconduct, thus, the disciplinary authority by a notice to show cause dated 31.7.2008 instructed the petitioner to submit his comments on that. The disciplinary authority showing his agreement with the findings given by the inquiry officer also proposed for subjecting the petitioner with a major punishment. Being aggrieved by entire process of inquiry resulting into inquiry report dated 30.7.2008 and notice to show cause dated 31.7.2008 this petition for writ is preferred.

The contention advanced by counsel for the petitioner to impugn the inquiry report and notice to show cause is that the petitioner is having a valid certificate certifying his belonging to "Dhanka" community, therefore, no inference could have been drawn by the inquiry officer or by the disciplinary authority contrary to that. It is also stated that the

findings of inquiry officer are based on conjectures and, as such, those could not be a reason to subject the petitioner by a major punishment.

In reply to the writ petition, stand of the respondents is that the petitioner is coming from "Dhanak" caste which is included in Scheduled Caste category and not in Tribes, as such his appointment as Constable against the vacancies reserved for Scheduled Tribes was not valid. As per the respondents in District Sriganganagar there was no person belonging to "Dhanka" Scheduled Tribes community, however, certain certificates were illegally issued by the Tehsildar Sriganganagar and those were cancelled after making necessary inquiry. The case of the petitioner is also required to be treated at par with the persons whose certificates were earlier cancelled. It is also asserted that so far as "Dhanka" community (Scheduled Tribes) is concerned, that resides in District Sirohi only. It is also pointed out by counsel for the respondents that the petitioner earlier too preferred a petition for writ before this Court giving challenge to the memorandum dated 11.12.2007 and that came to be disposed of on 21.2.2008 with a specific direction for completing the inquiry within a period of six months. A photostat copy of the order passed in petition for writ earlier preferred is available on record as Anx.17.

Heard counsel for the parties.

Much insistence is given by counsel for the petitioner upon the certificate dated 28.4.1994 (Anx.1) whereby the Tehsildar (Revenue) Sriganaganagar certified the petitioner as a member of Scheduled Tribes. An effort is also made by counsel for the petitioner on basis of various census reports that "Dhanka" community is residing in District Sriganaganagar also and the petitioner is "Dhanka" and not "Dhanak". As per counsel for the petitioner in view of a valid certificate possessed by the petitioner regarding his belonging, no contrary finding could have been given by the inquiry officer.

Having considered the arguments advanced, I am of the view that whether the petitioner is "Dhanak" or "Dhanka" and whether "Dhankas" are available in District Sriganaganagar and what shall be impact of the caste certificate dated 28.4.1994, is yet required to be examined by the disciplinary authority. It cannot be said that the report of inquiry officer dated 30.7.2008 and the notice to show cause dated 31.7.2008 are absolutely without jurisdiction or are based on total non-application of mind and as such it shall not be appropriate for this Court to examine all the issues raised in this petition for writ at this stage. The petitioner is having an opportunity to satisfy the disciplinary authority regarding his belonging and

also to explain his version relating to the findings given by the inquiry officer. While exercising powers of this Court under Article 226 of the Constitution of India, I am not inclined to go into all issues which are yet under consideration before the disciplinary authority as such no interfere with the matter at this stage is warranted. Accordingly, this petition for writ is dismissed. The petitioner may submit his explanation to the disciplinary authority in pursuant to the impugned notice dated 31.7.2008 within a period of three weeks from today and thereafter it is expected from the disciplinary authority to pass an appropriate order as per law by taking into consideration entire material available on record.

No order to costs.

(GOVIND MATHURA), J.

kkm/ps.