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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 3976 OF 2005

PETITIONER

✓ Smt. Sandhya Singh aged about 37 years D/o Shri Ram Sharan Singh Village- Tikarkala (Jyotipur) Block -Gaurella (Pendra Road) Distt.- Bilaspur (C.G.)

4069/05
Presented by Shri. Rahul Bisht
dated 16/8/05

VERSUS

RESPONDENTS

- ✓ 1. State Of Chhattisgarh- Through The Secretary, Schedule Caste and Schedule Tribe Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
- ✓ 2. State of Chhattisgarh Through: The Secretary, Water Resource Department, D.K.S. Bhawan, Raipur (C.G.)
- ✓ 3. The Commissioner, Schedule Caste and Schedule Tribe Welfare Department, Raipur (C.G.)
- ✓ 4. Schedule Tribe Caste Certificate Scrutiny Committee, Raipur (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION/ORDER IN THE LIKE NATURE ETC.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 3976 of 2005

PETITIONER : Smt. Sandhya Singh

VERSUS

RESPONDENTS : State of Chhattisgarh & others

(PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA)

(SB: Hon'ble Mr. N.K. Agarwal, J.)

Present : Shri Ashok Soni, Advocate for the petitioner.
Shri Kunal Das, Panel Lawyer for the State.

ORAL ORDER
(Passed on 30.09.2013)

1. Instant petition is directed against the order dated 24.05.2005 passed by the Schedule Tribe Caste Certificate Scrutiny Committee (for short the Committee) whereby it has been held by the Committee that the petitioner is a non Tribe.
2. Facts in brief necessary for disposal of this petition are that: petitioner's mother is Uraon (Schedule Tribe) by caste whereas his father is Rajput, Kshatriya (General Category). The Committee, having found the petitioner is a son of forward class father, declared him as non Tribe.
3. Learned counsel appearing for the petitioner, by placing its reliance upon the judgment of Supreme Court in case of Rameshbhai Dabhai Naika v. State of Gujrat & others¹, would submit that the mother of petitioner was Uraon (Tribe) by caste and the petitioner was brought up as a member of Uraon

¹ CIVIL APPEAL NO. 654 OF 2012, decided on 18.01.12

community and the order impugned has been passed by the Committee without considering above aspect of the matter, whereas the Supreme Court has laid down that above aspect of the matter is also required to be considered, and therefore, the matter may be remitted back to the Committee for deciding the petitioner's matter afresh in the light of judgment passed in Rameshbhai Dabhai's case.

4. On the other hand, learned counsel appearing for the State supported the order impugned.
5. Having heard the counsel appearing for the parties and having perused the order impugned, in my opinion, while passing the order impugned the Committee has not considered whether the petitioner was brought up as a member of Uraon community or not, inasmuch as, the above aspect of matter is very relevant in the light of judgment passed in Rameshbhai Dabhai's case wherein the Supreme Court has held : "it is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belonged to the scheduled caste/scheduled tribe. By virtue of being the son of a forward caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humiliations and handicaps like any other member of the community to which his/her mother belonged. Additionally, that he was always treated a member of

the community to which her mother belonged not only by that community but by people outside the community as well."

6. In view of above, the order impugned, being not sustainable in law, deserves to be and is hereby set aside. The matter is remitted back to the Committee to take afresh decision on the basis of the evidences that might be led by the two sides. It is made absolutely clear that this court is not expressing any opinion on the merits of the matter.

7. If any application in this regard is filed by the petitioner within a period of one month from today, the Committee is directed to decide the same in accordance with law laid down by the Supreme Court in Rameshbhai Dabhai's case as early as possible preferably within a period of six months from the date of receipt of such application. No order as to costs.

Sd/-
N.K. Agrawal
Judge