

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No.2899 of 2011

Ram Pravesh Bhakta

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Petitioner

Vs.

1.The State of Jharkhand

2.The Secretary, Employment & Training, Government of Jharkhand, Nepal House, Doranda, District-Ranchi

3.The Director, Employment & Training, Government of Jharkhand, State Secretariat at Nepal House, Doranda, First Floor, Ranchi, District-Ranchi

4.The Principal, Industrial Training Institute, Hazaribag, District-Hazaribag

5.The Investigating Officer, National Commission for Scheduled Caste, 189B, Shri Krishnapuri, Patna-800001, District-Patna (Bihar)

6.The Block Development Officer, Vaishali (Hajipur), District-Vaishali (Bihar)

7.Shri Dinesh Prasad Golwara, Panchayat Sevak/Panchayat Sachiv of Mian Bhairo Gram Panchayat, District-Vaishali (Hajipur), Bihar, PIN-844114

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Respondents

CORAM: HON'BLE DR. JUSTICE S.N.PATHAK

For the Petitioner : Mr. Rajendra Krishna, Advocate
Mr. Bakshee Vibha, Advocate

For the Resp.-State : Mr. Uttam Kr. Das, AC to GP-VI

For the State of Bihar : Mr. Diwakar Upadhyay, AC to GA-Bihar

45/ 22.03.2024 Petitioner has approached this Court with a prayer for issuance of writ in the nature of certiorari for quashing the Letter No.5/Training/Estt./71/2003-388, Ranchi dated 11.03.2011 issued by the respondent No.3, the Director, Employment and Training, Government of Jharkhand, Ranchi. Further prayer has been made not to take any coercive action against the petitioner without following the procedures. Further prayer has been made to quash the order No.826 dated 04.06.2013 and notice published on 30.10.2013 by which service of the petitioner as Senior Electrician Instructor has been terminated.

2. Petitioner was appointed on the post of Electrician Instructor, by the Directorate of Employment and Training, Bihar, Patna vide letter No.T-1-1101/XB-2-949 dated 19.03.1982 and since then he has been discharging his duty efficiently, honestly and diligently to the satisfaction of the respondents. Thereafter he was transferred to various places and in February 2004 was transferred to ITI, Hazaribagh. After confirmation of service the petitioner was promoted to the post of Senior Instructor in the Trade of Electrician. It is specific case of the petitioner that after more than 30 years of service, on

17.03.2011, the impugned order no.388 dated 11.03.2011 (Annexure-1) was issued and received by the petitioner and thereafter show-cause was issued by the respondent No.3. The petitioner duly replied to the said show-cause stating therein that his mother belongs to Turi caste and father was by caste Koiri. The mother of the petitioner died in childhood and after death of his mother he grown up under the care and guidance of his father. It is case of the petitioner that he got employment on the basis of Schedule Caste certificate issued to him by competent authority i.e., B.D.O. Vaishali who after due enquiry issued the caste certificate bearing No.201 dated 16.07.1981 in favour of the petitioner. On 11.03.2011 a show-cause notice was issued to the petitioner that as per the report of B.D.O., he has submitted a false certificate that he belongs to Turi community (Schedule Caste) and upon the same he has obtained the employment. However, as per the report of B.D.O, Vaishali the petitioner belongs to Kushwaha (Koiri) community. The Investigating Officer, National Commission of Schedule Caste, Bihar have blindly accepted the report of B.D.O., Vaishali and that of Panchayat Sewak and on the recommendation of the Enquiry Officer, the petitioner was dismissed from services on 04.06.2013. Left with no option the petitioner has been constrained to knock the door of this Court for redressal of his grievances.

3. Learned counsel for the petitioner assailing the impugned order urges that impugned order is not tenable in the eyes of law. In view of the fact that the caste certificate of the petitioner was not traceable as per the enquiry report, the same cannot make the petitioner to be guilty of charges. Further it has been argued that the order of termination issued vide notification dated 04.06.2013 is not sustainable in the eyes of law as the same cannot be given retrospective effect. It has further been argued that in the criminal case based on the identical charges, petitioner has been acquitted and thus onus lies on the respondents to prove the charges and not the petitioner. Learned counsel submits that in view of Government Circular Contained in Memo No.99 dated 03.03.1978 which stipulates “that an off-spring born to a caste Hindu Father and a Scheduled Caste Hindu Mother- could be considered a Scheduled Caste” and rightly the caste certificate has been issued to him. The enquiry report is non-est in the eyes of law and is fit to be quashed and set

aside. The petitioner be reinstated in services with all consequential benefits taking into account that he belongs to a Schedule Caste category and in view of the fact that the caste certificate was issued in his favour by the competent authority and he continued to work for more than 30 years. Merely because a wrong finding has been given without any evidence, the same cannot be tenable in the eyes of law.

4. Counter-affidavit has been filed by the State of Jharkhand as well as State of Bihar. Counter-affidavit dated 07.12.2023 at para-24 clearly shows that the enquiry officer after giving sufficient opportunity to the petitioner proceeded in departmental enquiry and after perusal of the evidence available on record, the same was concluded wherein the petitioner was found guilty of the charges framed against him. The second show-cause notice was issued to the petitioner and served upon him to which he duly replied. It is further argued that the second show-cause notice, is contrary to the notification dated 03.01.2007 letter No.40 of Department of Personal, Administration Reform Govt. of Jharkhand. Further as per the enquiry report the petitioner has been found to be belonging to OBC category and not the Schedule Caste category, as claimed and as such, the caste certificate produced by the petitioner was forged one and any appointment based on that certificate is non-est in the eyes of law. No illegality or infirmity has been pointed out in the entire departmental proceeding and after following the due procedures, the impugned order has been passed which is fully justified. Learned counsel for the respondents-State of Jharkhand places heavy reliance on the judgment of Hon'ble Apex Court in the case of *Mrs. Vesamma Paul Vrs. Cochin Union* reported in *1996(3) SCC* and also in several other cases like *D. Neelima case (supra)*, *Dr. T. Rajeswari case (supra)* and *A. Pratyusha case (supra)*. It is clearly held that where father belongs to General Category and mother from reserve category then their children cannot claim reservation for the purpose of appointment. In the celebrated judgment of *Regional Manager, Central Bank of India Vrs. Madhulika Guru Prasad Dahir* in SLP No.9781/Civil Appeal No.4636/2008, it has been clearly held that any appointment made on the basis of false caste certificate is void-ab-initio and rightly the petitioner was terminated from service.

5. Learned counsel for the respondent State of Bihar adopted the argument advanced by the respondent-State of Jharkhand and submits that rightly petitioner has been dismissed from the services and he is not entitled for any relief whatsoever.

6. Having gone through the rival submissions of the parties, across the bar, this Court is of the considered view that no case is made out for interference. The issue involved in the present writ petition is no more res-integra. The same has been duly considered by this Court in the case of *Madhusudan Vs. State of Jharkhand* and also in the case *Sandeep Bakshi Vs. State of Jharkhand & Ors.* in W.P.(S) No.4721 of 2013. The observations made in the judgment of Hon'ble Apex Court in the case of *Kumari Madhuri Patil v. Addl. Commissioner, Tribal Development*, reported in (1994) 6 SCC 241 has duly been considered and thereafter the committee headed by Director has passed the said order, it requires no interference. The legal propositions as laid down in plethora of judgments of Hon'ble Apex Court as well as this Court is that any appointment based on forged certificate cannot be termed to be an appointment in the eyes of law and the same is nullity and as such requires no interference.

7. The writ petition merits dismissal and the same is hereby dismissed.

8. Pending I.A., if any stands closed.

(Dr. S.N. Pathak, J.)