



HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5933 of 2021

* - Bhuvan Dekate S/o Rameshwar Dekate, Aged About 47 Years Presently Working As Personal Assistant, Department Of General Administration, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District Raipur Chhattisgarh.

--- **Petitioner**

Versus

* - State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District Raipur Chhattisgarh.

--- **Respondent**

And

WPS No. 5951 of 2021

* - Purushottam Kosta S/o Shri Gopal Prasad Kosta Aged About 45 Years R/o Currently Posted As Personal Assistant, General Administration Department, Mantralaya, Naya Raipur, Raipur, District : Raipur, Chhattisgarh

---**Petitioner**

Versus

* - State Of Chhattisgarh Through Secretary, General Administration Department, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh

--- **Respondent**

And

WPS No. 5991 of 2021

* - Dhannu Das Burde S/o Late Shri Saroop Das Burde Aged About 46 Years R/o Currently Posted As - Personal Assistant, General Administration Department, Mantralaya, Naya Raipur, Raipur (Chhattisgarh)

---**Petitioner**

Versus

* - State Of Chhattisgarh Through - Secretary, General Administration Department, Mantralaya, Naya Raipur, Raipur (Chhattisgarh)

--- **Respondent**

And

**WPS No. 6015 of 2021**

* - Jagdish Narayan Koshta S/o Late Shri P. N. Koshta Aged About 47 Years Presently Working As Personal Secretary, Department Of General Administration, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District : Raipur, Chhattisgarh

---Petitioner

Versus

* - State Of Chhattisgarh Through- The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur, District : Raipur, Chhattisgarh

--- Respondent

And**WPS No. 6180 of 2021**

* - Kailash Kumar Parate S/o Late Shri Harchand Parate Aged About 56 Years R/o Behind Ashoka Heights, Aman Nagar, Mowa, Raipur, District : Raipur, Chhattisgarh

---Petitioner

Versus

1 - State Of Chhattisgarh Through - Secretary, Agriculture Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh

2 - Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh

3 - Director Of Horticulture, Farm And Forestry, Indrawati Bhawan, 2nd Block, 4th Floor, Nawa Raipur, District : Raipur, Chhattisgarh

--- Respondents

And**WPS No. 6207 of 2021**

* - Rajendra Dekate S/o Late Vasudev Dekate, Aged About 54 Years R/o Transit Hostel, Jagdalpr, District Bastar Chhattisgarh.

---Petitioner

Versus

1 - State Of Chhattisgarh Through Secretary, Sports And Youth Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.

2 - Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.

3 - Director, Sports And Youth Welfare, Sardar Vallabh Bhai Patel, International Hokey Stadium, Raipur, District Raipur Chhattisgarh.

--- Respondents



For Respective Petitioners	:	Mr. Manoj Paranjpe, Senior Advocate with Mr.Kabeer Kalwani, Advocate; Ms. Surya Kawalkar Dangi, Advocate and Mr. Gajendra Prakash Sahu, Advocate holding the brief of Mr. Abhishek Thakur, Advocate
For Respondents	:	Mr. Amandeep Singh and Mr. Topilal Bareth, Panel Lawyers

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

01/04/2026

1. In these batch of writ petitions, the petitioners have challenged the order dated 17.09.2021 issued by the State Government whereby **(i)** the decision has been taken to withdraw service protection extended to the petitioners, Circular dated 02.09.2021; **(ii)** the decision taken by the State Government to delete the names of the petitioners from respective seniority list of general category; **(iii)** the order passed by the respondents whereby representation(s) made by the petitioners have been rejected and **(iv)** the order dated 01.06.2021 whereby directions have been issued to reopen the cases and to withdraw the protection.
2. The facts, in nut shell, are that the petitioners were appointed on various posts as candidates of reserved category of Scheduled Tribe (Halba). The petitioners were discharging their duties peacefully, but subsequently The High Power Certification Scrutiny Committee invalidated their social status certificates, but at the same time, service protection was extended, but it was also observed the petitioners



would not get benefit of their social status in future according to Circular dated 01.10.2011. The State Government took decision to withdraw the protection extended to the petitioner and other similarly government servants on 11.01.2016. The petitioners as well as other aggrieved persons filed WPS No. 147/2016 and connected matters before the High Court. The issue involved in those writ petitions was that as to whether the service protection granted by the High Power Certification Scrutiny Committee pursuant to Circular dated 01.10.2011 can be withdrawn by subsequent Circular with retrospective effect ? The High Court vide order dated 01.07.2016 held that the Circular dated 11.01.2016 is bad in law and further held that the petitioners would be entitled for service protection extended by the High Power Certification Scrutiny Committee. It was also held that the observation made by the High Power Certification Scrutiny Committee attained finality in the light of judgment passed by the Hon'ble Supreme Court in the matter of ***Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and others, (1994) 6 SCC 241*** and ***Dayaram Vs. Sudhir Batham and others, (2012) 1 SCC 333***. The common judgment passed in WPS No. 147/2016 and connected matters was challenged in Writ Appeal No. 531/2016 and connected matters . The Hon'ble Division Bench vide order dated 14.02.2017 held that the petitioners are entitled to be retained in service but with effect from 28.11.2000 and they would be treated as general category candidates and would not be entitled to claim any further benefits of belonging to the Scheduled Tribe category. The State challenged the said order by filing SLP (Civil) No. 23294/2018 and it was dismissed vide order dated 06.08.2018. The protection was granted to the



petitioners pursuant to Circular dated 01.10.2011 and said protection was withdrawn vide Circular dated 11.01.2016 and it was the subject matter of WPS No. 147/2016. In said writ petition, the Circular dated 11.01.2016 was held to be bad in law. The State Government restored the Circular dated 11.01.2016 vide Circular dated 03.06.2020 and further issued direction to reopen the cases where the government servants have obtained social status certificates on account of misrepresentation or by playing fraud. The State Government vide Circular dated 02.09.2021 withdrew the Circular dated 03.06.2020 and restored Circular dated 11.01.2016. The names of the petitioners were placed at the bottom of the gradation list of unreserved category pursuant to directions issued by the High Power Certification Scrutiny Committee and the Circular issued by General Administration Department and respective orders passed in their favour. The State Government took decision to delete the names of the petitioners from seniority list. Some of the petitioners moved representation(s) before the respondent authorities claiming therein promotion to the next higher post and those representation(s) were rejected. Further the order was issued to reopen the cases which were finalized by the High Power Certification Scrutiny Committee and the High Court.

3. Mr. Manoj Pranjpe, learned Senior Advocate appearing for the petitioners leading the argument would submit that the validity and propriety of Circular dated 11.01.2016 was considered in WPS No. 147/2016 and WA No. 531/2016 and said Circular was considered bad in law. He would contend that the matter went upto to Hon'ble Supreme Court and SLP (Civil) No. 23294/2018 filed by the State was



dismissed. He would contend that as it has already been held in the judicial pronouncement that Circular dated 11.01.2016 is arbitrary, discriminatory and bad in law, therefore, it cannot be restored by the respondent authorities withdrawing the service protection. He would contend that the service protection was extended to the petitioners by Caste Scrutiny Committee pursuant to Circular dated 01.10.2011 and findings have been affirmed in writ petitions and in writ appeals and therefore, State has no authority of law to withdraw service protection or to reopen settled dispute with regard to social status of the petitioners. It is also argued that when the *inter se* dispute between the parties with regard to grant of protection and social status of the petitioners has attained its logical conclusion, it could not be reopened by the respondent authorities over reaching orders passed by the High Court in writ petitions and in writ appeals. He has placed reliance on the judgments passed by the Hon'ble Supreme Court in the matter of ***Chief Regional Officer, Oriental Insurance Company Limited Vs. Pradip and Another, (2020) 11 SCC 144*** and ***Gajanan Marotrao Nimje and Others Vs. Reserve Bank of India and Others, (2019) 12 SCC 639***.

4. On the other hand, learned Panel Lawyers appearing for the respondents/State would oppose. They would submit that a Circular dated 08.04.2019 was issued by the Government of India extending service protection and same was withdrawn vide Office Memorandum dated 24.07.2020. They would contend that the State Government has taken decision to withdraw service protection extended to the petitioners pursuant to Office Memorandum dated 24.07.2020. It is also argued that decision was taken by the State Government to



reopen the cases where the government servants/petitioners obtained social status certificate on account of misrepresentation or by playing fraud in the light of the matter of ***Chairman and Managing Director, Food Corporation of India and Others Vs. Jagdish Balaram Bahira and Others, (2017) 8 SCC 670***. It is further argued that as the social status certificate of the petitioners are still in cloud, therefore, representations made by the petitioners seeking promotion to the next higher post have been rejected. They would submit that these the petitions deserve to be dismissed.

5. I have heard learned counsel for the parties and perused the documents annexed with the writ petitions.
6. Admittedly, the petitioners were appointed against the post reserved for Scheduled Tribe category. Their social status certificates were invalidated by the High Power Certification Scrutiny Committee, but at the same time service protection was extended pursuant to Circular dated 01.10.2011. The service protection extended to the petitioners was withdrawn vide Circular dated 11.01.2016. The petitioners and other aggrieved persons challenged said decision by filing WPS No. 147/2016 and connected matters and those writ petitions were allowed and said Circular was quashed. Writ Appeals preferred by the State Government were dismissed. Subsequently, SLP (Civil) No. 23294/2018 was also dismissed. The petitioners were availing service protection extended by the High Power Certification Scrutiny Committee, Circulars issued by the State Government from time to time and the orders passed by the High Court on 01.07.2016 in WPS No. 147/2016 and on 14.02.2017 in WA No. 531/2016. The dispute arose after judgment rendered by the Hon'ble Supreme Court in the



matter of **Jagdish Balaram Bahira** (supra) wherein the Hon'ble Supreme Court held that where a candidate has obtained an appointment to a post on the solemn basis that he or she belongs to a designated caste, tribe and it is found upon verification that the claim is false, the services of such an individual cannot be protected by taking recourse to administrative circulars or resolutions. It is further held that protecting the services of a candidate who is found not to belong to the community or tribe for whom the reservation is intended substantially encroaches upon legal rights of genuine members of the reserved communities. It is further held that withdrawal of benefits secured on the basis of a caste claim which has been found to be false and is invalidated is a necessary consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise. The relevant paragraph nos. 65 and 69.7 are reproduced herein below:-

“65. Administrative circulars and government resolutions are subservient to legislative mandate and cannot be contrary either to constitutional norms or statutory principles. Where a candidate has obtained an appointment to a post on the solemn basis that he or she belongs to a designated caste, tribe or class for whom the post is meant and it is found upon verification by the Scrutiny Committee that the claim is false, the services of such an individual cannot be protected by taking recourse to administrative circulars or resolutions. Protection of claims of a usurper is an act of deviance to the constitutional scheme as well as to statutory mandate. No government resolution or circular can override constitutional or statutory norms. The principle that the Government is bound by its own circulars is well settled but it cannot apply in a situation such as the present. Protecting the services of a candidate who is found not to belong to the community or tribe for whom the reservation is intended substantially encroaches upon legal rights of genuine members of the reserved



communities whose just entitlements are negated by the grant of a seat to an ineligible person. In such a situation where the rights of genuine members of reserved groups of communities are liable to be affected detrimentally, government circulars or resolutions cannot operate to their detriment.

69.7 Withdrawal of benefits secured on the basis of a caste claim which has been found to be false and is invalidated is a necessary consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise.”

7. Pursuant to order passed in the matter of **Jagdish Balaram Bahira** (supra), the Government of India extended service protection to the government servants whose social status certificates were invalidated vide Circular dated 08.04.2019. The Government of India vide subsequent Circular dated 14.07.2020 withdrew the Circular dated 08.04.2019 referring the judgment passed in the matter of **Jagdish Balaram Bahira** (supra). The State Government of Chhattisgarh extended service protection to the petitioners and other government servants whose social status certificates were invalidated vide Circular dated 01.10.2011. The said Circular was withdrawn on 11.01.2016, but said decision of the State Government was held to be illegal and Circular was quashed in WPS No. 147/2016 vide order dated 01.07.2016. The decision was taken in said writ petition prior to pronouncement of judgment in case of **Jagdish Balaram Bahira** (supra) vide judgment dated 06.07.2017. The State Government issued a Circular to reopen the cases in light of the judgment passed in the matter of **Jagdish Balaram Bahira** (supra). On 03.06.2020 a Circular was issued whereby Circular dated 01.10.2011 was restored, but Circular dated 03.06.2020 was withdrawn vide Circular dated



02.09.2021.

8. In the matter of **Pradip** (supra), the Hon'ble Supreme Court, in paragraph no. 16, held as under:-

“16. The above narration would indicate that the decisions in *S.G. Barapatre v. Ananta Gajanan Gaiki*, 2018 SCC OnLine SC 2175 dated 10-10-2018 and *Nimje* dated 11-10-2018 were rendered in a context where, prior to the decision of the three-Judge Bench in *FCI*, the order of the High Court dated 1-11-2012 had attained finality. Since the order of the High Court inter partes had attained finality before the decision in *FCI*, the matter had to rest there. Both *Barapatre* and *Nimje* are decisions of a two-Judge Bench and do not lay down any principle of law contrary to the binding three-Judge Bench decision in *FCI*. Neither the DoPT Circular dated 8-4-2019 nor the Circular dated 20-6-2019 of the Department of Revenue can depart from the principles laid down in *FCI*. The circulars must hence be construed to apply only to the peculiar facts noted in *Barapatre* and *Nimje* which we have explained earlier. Any other construction of the circulars will render them ultra vires. The Government by an executive act cannot possibly override the binding decision of the three-Judge Bench of this Court in *FCI*.”

9. Admittedly, in these batch of writ petitions, the *inter se* dispute between the parties was settled prior to 06.07.2017 and the dispute had attained finality since the order of the High Court in WPS No. 147/2016 was rendered on 01.07.2016. The judgment was passed in writ appeal affirming the judgment passed in writ petition vide order dated 14.02.2017, therefore, in my opinion, there was no occasion for the State Government to withdraw service protection extended to the petitioners pursuant to order passed by the High Power Certification Scrutiny Committee; Circular dated 01.10.2011, orders passed in writ petitions and in writ appeals and thus, Circular dated 02.09.2021 is bad in law and therefore, hereby quashed.



10. The petitioners entered into services under the State Government of Chhattisgarh pursuant to specific recruitment rules. The Rule 3 of CG Civil Services (General Conditions of Services) Rules, 1961 states that it shall apply to every person who holds a post or is a member of a service in the State. The Rule 9 (13) of CG Fundamental Rules defines lien and it states that the title of a government servant to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post including a tenure post, to which he has been appointed substantively. Appointment of a government servant according to recruitment rules and general conditions of service rules includes benefit attached to the post like pay protection, seniority, promotion, retiral benefits etc. Any of such benefit cannot be withdrawn without assigning specific reasons. In the present case, the services of the petitioners have been protected by various authorities including High Court and therefore deletion of their names from seniority list would certainly affect their service career which has civil consequences, therefore, decision taken by the respondent authorities to delete their names from seniority list is *per se* illegal, arbitrary and discriminatory and violative of Articles 14, 16 and 21 of Constitution of India. Therefore, the Circulars/orders issued in this regard are hereby quashed.
11. With regard to rejection of representation(s) made by the petitioners whereby the petitioners have been denied promotion, as it is already held that decision of the State Government to delete the names of the petitioner from seniority list is bad in law, the respondent authorities are directed to reconsider the claims of the petitioners for promotion if they are found suitable and eligible.



12. The decision taken by the respondent authorities to reopen the cases which have already been finally settled between the parties, in the light of judgment passed by the Hon'ble Supreme Court in the matter of ***Pradip*** (supra), such decision is not sustainable in the eyes of law. Accordingly, Circulars/orders passed in this regard are hereby quashed.
13. In the results, these writ petitions are **allowed**.

Sd/-

(Rakesh Mohan Pandey)
Judge