



HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5555 of 2024

MOHAMMAD SALMAN versus STATE OF CHHATTISGARH

Order on Board

28/01/2025	<p>Mr. B.P. Singh, Advocate and Mr. Shikhar Bakhtiyar, Advocate for the petitioner.</p> <p>Mr. R.S. Marhas, Addl. Advocate General, Mr. Animesh Verma, Advocate and Ms. Juhi Anguriya, Advocate for the respective respondents.</p> <p>Heard on I.A. No. 02/2024, an application for interim relief.</p> <p>By the present writ petition, the petitioner is questioning the order dated 06/05/2024, whereby the Divisional</p>

Commissioner, Durg, in exercise of the power under Section 19 (1) (a-1) of the Chhattisgarh Municipal Corporation Act, 1956 (for short 'the Act, 1956) removed the petitioner from the post of Councilor from Ward No. 35, Sharda Para, Bhilai.

Learned counsel for the petitioner submits that the petitioner belongs to Kunjda caste, which is an OBC caste, and social status certificate has been issued by the SDO, which has been filed at page no. 126 of the writ petition. He submits that the Commissioner while exercising the power under Section 19 (1) (a-1) of the Act, 1956 has observed that the certificate produced by the petitioner as forged one. The said finding is on the basis of report submitted by the SDO, whereas, the Commissioner ought to have referred the matter to the District Level Caste Scrutiny Committee under the provisions of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (hereinafter referred to as 'the Act, 2013') and without doing so, and by observing that the petitioner does not belong to OBC caste as his certificate is forged, he removed the petitioner from the post of councilor, which is not in accordance with law.

Learned counsel for the State as well as for the private respondent submit that there is no need to send the matter to the District Level Caste Scrutiny Committee as the certificate produced by the petitioner itself is a forged document, which

is evident from the report of the SDO (Revenue) and an FIR has been registered against the petitioner. The petitioner had also preferred an appeal against the order passed by the Divisional Commissioner. The same has also been dismissed by the State Government vide order dated 4-9-2024 (Annexure-P/1) and maintained the order passed by the Commissioner.

I have heard counsel for the parties.

On perusal of the finding recorded by the Commissioner about the caste of the petitioner stating that he does not belong to the OBC caste, it appears that the same is only on the basis of the report submitted by the SDO dated 07/03/2024, the observation has been made by the Commissioner on the caste status of the petitioner, which cannot not be permissible as the respondent/SDO, who has submitted the report had to refer the matter to the District Level Caste Scrutiny Committee constituted under the Act, 2013 and without doing so, observation has been made against the petitioner and he has been removed from the post of councilor.

Considering the entire facts situation of the case and for the reasons stated herein above, purely as an interim measure, the effect and operation of order dated 06/05/2024 (Annexure – P/2) passed by the Divisional Commissioner and the order dated 4/9/2024 (Annexrue-P/1) passed by the

State Government, in appeal, shall remained stayed till further orders.

Accordingly, I.A.No.2 of 2024 stands disposed of.

In the meantime, respondents may file reply.

Certified copy as per rules.

Sd/-
(BIBHU DATTA GURU)
Judge