

Gulzar Singh

Vs

Sub-Divisional Magistrate and Another

Civil Appeal No. 437 of 1999

(B. N. Kirpal, V. N. Khare JJ)

22.01.1999

ORDER

1. Special leave granted.

2. The appellant had been issued a caste certificate on 10-10-1998 in which it was inter alia stated that the appellant belongs to Majhbi Sikh caste which was recognized as a Scheduled Caste. The grievance of the appellant was restricted to the decision communicated to him by the sub-Divisional Magistrate, Gurdaspur dated 3-6-1997 whereby Certificate No. 9336 dated 10-10-1998 was cancelled. The said certificate was cancelled because an enquiry, which was stated to have been conducted, it was found that the appellant belongs to the Christian community. The cancellation of the Scheduled Caste certificate was challenged by the appellant by filing a writ petition in the High Court. The high Court dismissed the same by observing as follows :

"From the pleading of the parties, it is crystal clear that an open enquiry was made with regard to the Scheduled Caste certificate issued to the petitioner and in the said enquiry, the petitioner was associated. On proper appraisal of all aspects of the case, it has been held that the petitioner is not a Scheduled Caste but a Christian. That being so, we find nothing wrong in the order vide which the Scheduled Caste certificate issued to the petitioner has been cancelled."

3. It is clear from the facts on record that prior to the cancellation of the Scheduled Caste certificate by the impugned order dated 3-6-1997, no show-cause notice was issued to the appellant. It cannot be denied that with the issuance of the Scheduled Caste certificate, certain rights accrued to the appellant. If this certificate was to be cancelled on the basis of some enquiry which had been conducted by the department, it was incumbent on the department, keeping in view the principles of natural justice, to issue a show-cause notice to the appellant requiring him to explain as to why the Scheduled Caste certificate which had been issued should not be cancelled. If there were statements of other persons which were recorded, as seem to have been done in the present case, on the basis of which the department came to the conclusion that the appellant was not a Majhbi Sikh by caste but was a Christian, then fairness would require that the said statements should be put to the appellant before a final decision is taken.

4. In view of the fact that the principles of natural justice were violated in the present case, we allow this appeal, set aside the judgment of the High Court and quash the impugned order passed on 3-6-1997, leaving it open to the respondent to take action in accordance with law. There will be no order as to costs.