

SUPREME COURT OF INDIA

O.N.G.C. Ltd.

Vs.

B. Uma

C.A.No.2036 of 2006

(A.K.Mathur J.)

29.07.2008

ORDER

1. We have heard learned counsel for the parties.
2. This appeal by special leave is directed against the judgment and order dated 27th September, 2004 in Writ Petition Nos. 18114 and 18115 of 2002 passed by the learned Single Judge of the Madras High Court whereby the learned Single Judge of the High Court allowed the writ petitions and quashed the order of termination as well as the order of State Level Caste Scrutiny Committee.
3. The brief facts which are necessary for the disposal of this appeal are that the petitioner (respondent herein) was working as a Stenographer in the O.N.G.C. She secured the appointment on the basis of the schedule caste certificate issued by the Tehsildar dated 3.7.1979. A complaint was received and the matter was referred by the Corporation-Appellant herein to the Tehsildar and the Tehsildar in turn referred it to the District Vigilance Committee and the District Vigilance Committee after considering the matter came to the conclusion that the petitioner cannot be considered to be a scheduled caste by Order dated 19th July, 2000.
4. Aggrieved against that order an appeal was preferred by the incumbent and the Appellate Authority confirmed the order of the District Level Committee dated 29.4.2002. Consequently, the appellant herein terminated the services of the respondent by order dated 21.5.2002. Therefore, the respondent herein was driven to file a writ petition challenging the order dated 25th May, 2002 as well as the order passed by the District Vigilance Committee and by the State Level Committee cancelling the certificate. The learned Single Judge, after considering the Government's Order G.O.Ms. No.477 dated 27.6.1975 whereby the Government has laid down that in case of a marriage of scheduled caste to a non scheduled caste, their wards can chose the caste of either of the parents.
5. In the present case, the petitioner (respondent herein) when she was admitted in the school, adopted the caste of her father viz. Hindu Gowda but at the time when she applied for

service, she wanted to adopt the caste of her mother i.e. Hindu Adi Dravida which is a scheduled caste community and on that basis she secured the appointment. But after the complaint was received and the matter was referred to the District Vigilance Committee as well as to the State Level Committee whereby they cancelled the certificate obtained by the incumbent and her services were terminated. Learned Single Judge after referring to the aforesaid circular has held that the petitioner has right to adopt her mother's caste and she has rightly secured the appointment and consequently, set aside the termination order of the petitioner. Hence the appellant is in appeal against the aforesaid order passed by the learned Single Judge dated 27th September, 2004.

6. We have heard learned counsel for the parties and perused the record.

7. Learned counsel for the appellant has invited our attention to the decision of this Court in the case of *Anjan Kumar versus Union of India & Ors.*¹ and read out the observation with regard to a similar circular issued by the Government of India dated 4.3.1975 which was almost pari materia with this. Learned Counsel for the respondent submitted that this is a matter which has to be examined by the competent authority but in the present case learned counsel pointed out that the order passed by the District Vigilance Committee was bad. As per the circular the Vigilance Committee has to be constituted by three members but in the present case, the vigilance committee was constituted of two persons only and this has been affirmed by the State Level Committee. Learned counsel submitted that this goes to the root of the matter that the committee was not properly constituted.

8. Therefore, setting aside the certificate by the Tehsildar and by the District Vigilance Committee was without jurisdiction and the same has been affirmed by the Appellate Authority. Therefore, learned counsel submits that this matter may be remitted back to the Vigilance Committee. Learned counsel submits that now the committee has been properly constituted as per the G.O. (Ms.) No.111 dated 6.7.2005. Therefore, it is clear that the initial order was bad as the Committee of two persons was not a competent authority to have adjudicated the issue of caste of the incumbent. Therefore, we set aside this order and all other orders relating to this issue and remit the matter back to the District Level Vigilance Committee to reconsider the caste of the incumbent and pass an order in accordance with law.

9. The appeal is accordingly disposed of and the case is remitted back to the District Level Vigilance Committee.

10. Let the Vigilance Committee expedite the matter and dispose of the same as expeditiously as possible within six months from the date of receipt of the copy of this order.

11. No order as to costs.

¹2006 (3) SCC 257