

Versus

1. The State of Jharkhand through its Secretary, Department of Scheduled Tribe, Scheduled Caste, Minority and Backward Class Welfare, Government of Jharkhand at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand
 2. The Secretary, Department of Women, Child Development and Social Security, Government of Jharkhand at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand
 3. The Tribal Welfare Commissioner cum Member Secretary, Scrutiny Committee, Department of Scheduled Tribe, Scheduled Caste, Minority and Backward Class Welfare, Government of Jharkhand, Project Building, Dhurwa, P.O. and P.S. Dhurwa, District Ranchi, Jharkhand
 4. The Managing Director, Jharkhand State Tribal Cooperative Development Corporation Ltd. Kalyan Complex, Balihar Road, Morabadi, P.O. & P.S. Bariatu, District Ranchi, Jharkhand
 5. The Director, Dr. Ramdayal Munda, Tribal Welfare Research Institute, Ranchi, Tagore Hill Rd. Tetartoli, Morabadi, P.O. and P.S. Bariatu, District Ranchi, Jharkhand
 6. The Deputy Commissioner, West Singhbhum at Chaibasa, P.O. & P.S. Chaibasa, District West Singhbhum, Jharkhand
 7. The Sub Divisional Officer, West Singhbhum at Chaibasa, P.O. & P.S. Chaibasa, District West Singhbhum, Jharkhand
 8. The Circle Officer, Khutpani, P.O. & P.S. Khutpani, District West Singhbhum
 9. Kanu Ram Naag son of Jagmohan Nag, resident of Down Tagore Hill Road, near Airtel Tower, Village Bania Toli, P.O. & P.S. Morabadi, District Ranchi, Jharkhand
- Respondents

For the Petitioner : Mr. Neil Abhijit Toppo, Advocate
 For the State : Mr. Gaurav Raj, A.C. to A.A.G. III
 For The JSTCDC : Dr. Ashok Kumar Singh, Advocate
 Mr. Sharon Toppo, Advocate

This writ petition is filed for quashing the report of the Caste Scrutiny Committee dated 29.02.2016 prepared under the chairmanship of Secretary, Department of Scheduled Tribe, Scheduled Caste, Minority and Backward Class Welfare, Government of Jharkhand by which caste

"Tamaria" has been accepted as sub caste of Munda caste and thereby coming under the category of Scheduled Tribe.

2. In sum and substance, the report of Caste Scrutiny Committee dated 29.02.2016, is under challenge.

3. The matter came to fore, on respondent no.9- Kanu Ram Naag being appointed to the post of Deputy Director against a seat reserved for scheduled tribe candidates through 2nd JPSC examination claiming himself belonging to Munda caste.

4. A complaint was made in this regard by Lalji Ram Tiu to the Deputy Commissioner, West Singhbhum on 29.02.2013 and also to the Investigating Officer, Scheduled Tribe Commission, Ranchi on 21.05.2013.

5. Deputy Commissioner, West Singhbhum, Chaibasa vide departmental letter no.3310 dated 17.04.2013 called for an enquiry report. The matter finally travelled to Caste Scrutiny Committee which submitted its report on 29.02.2016 stating that *Tamaria* was sub caste of Munda and therefore, it came within Scheduled Tribe. This report is under challenge in this writ petition.

6. From perusal of the earlier order passed by the co-ordinate Bench of this Court, it appears that adjournments were sought by the petitioner to satisfy the Court with regard to maintainability of the writ petition in view of the fact that petitioner being the Secretary, Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand was challenging the report by another Department of Government of Jharkhand. The seminal issue involved in the writ petition is whether writ petition is maintainable by one limb of Government against another limb.

7. With regard to maintainability, it is argued that State is only a formal party as the report has been signed by respondent no.1. The main issue in the instant writ petition is whether Kanu Ram Naag, who belongs to *Tamaria* caste can be accepted as Schedule Tribe.

8. It is submitted that the Department pointed out that although the Caste Scrutiny Committee in its report dated 29.02.2016 has found the caste of Kanu Ram Naag i.e. *Tamaria*, is a Sub Caste of Munda caste, but the Committee has not given any finding as to whether the caste certificate is valid or not. The Department has also found that in terms of Article 342 of

the Constitution of India, only those tribes are recognized as Schedule Tribes which have been mentioned in the list published by the Presidential Order under Article 342(1) of the Constitution of India. In the Scheduled Tribe Order, 1950, Mahli and Munda have been placed at Sl. Nos.22 and 24 respectively and in the year 2003, *Patar* was added in the said list and apart from Munda, Mahli and Patar, no other sub caste of Munda caste is recognized as Scheduled Tribe by the Constitution of India and accordingly it was proposed to get the caste certificate of the respondent no.9 verified by the Caste Scrutiny Committee and the Committee has not given any finding with respect to validity of Caste Certificate of respondent no.9- Kanu Ram Naag.

9. It is argued by learned counsel on behalf of respondent-State that the Caste Scrutiny Committee after due enquiry has held that the Tamarias of Singhbhum are Patar Mundas and they are included in the notification issued by the President under Article 342(1) of the Constitution. Consequently, their inclusion in item no.52 under the heading “backward class” and item no.34 under the heading “very backward class” in Annexure-1 to the writ petition must be struck down.

10. The seminal question involved in the instant writ petition is whether a writ petition is maintainable at the instance of a Department of the State against another Department of State?

11. This Court is of the view that such a writ petition is not maintainable, particularly when Caste Scrutiny Committee has given a definite finding that *Tamaria*, was a Sub Caste of Munda caste. This is a finding of a fact which cannot be looked into in the exercise of writ jurisdiction. If the State feels that the said finding of fact is flawed, it is open for it to file declaratory suit with regard to the matter.

This Court is of the view that writ petition is not maintainable and is accordingly dismissed. Interlocutory Application, if any, is disposed of.

(Gautam Kumar Choudhary, J.)