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ANJAN KUMAR v. UNION OF INDIA

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(2006) 3 Supreme Court Cases 257

BEFORE H.K. SEMA AND DR. AR. LAKSHMANAN, JJ.)

a ANJAN KUMAR

Appellant;

Versus

UNION OF INDIA AND OTHERS

Respondents.

Civil Appeal No. 6445 of 2000†, decided on February 14, 2006

- b A. Constitution of India — Arts. 342, 16 and 13 — Scheduled Tribe (ST) — Grant of tribe certificate — Claim in respect of, made by offshoot of wedlock between a tribal woman and a non-tribal man — Maintainability — Held, condition precedent for granting tribe certificate is that one must suffer disabilities wherefrom one belongs — Hence, offshoot of the aforesaid wedlock cannot claim status of ST — However, offshoots of wedlock between a tribal man and a non-tribal woman would attain the tribal status — Circular issued by Govt. holding that children born out of marriage between a Scheduled Tribe woman and non-Scheduled Tribe man would be treated as members of ST community if the marriage is accepted by the community and children are treated as members of their own community, held, was of no assistance in the face of the constitutional provisions as well as on the facts of the case, namely, that the parents underwent a court marriage, petitioner was brought up in the city in the environment of forward community — Casual visit to village, held, did not amount to acceptance by the tribal community — Cordial relationship with tribal community not enough — Scheduled Castes and Tribes — Constitution (Scheduled Tribes) Order, 1950 — Scheduled Castes and Tribes — Caste certificate

- c B. Constitution of India — Arts. 342, 16 and 13 — Scheduled Tribe — Acquisition of status of — Claim in respect of, based on circular issued by Govt. in relation thereto — Maintainability — Held, such circulars not law within the meaning of Art. 13 — Hence, could be of no assistance to the appellant in the face of the constitutional provisions — Administrative Law — Subordinate/Delegated legislation — Circular — Status of — Held, is not law — Also cannot operate if contrary to constitutional provisions — Administrative Law — Ultra vires — Circular contrary to constitutional provisions — Can be of assistance — Scheduled Castes and Tribes — Status as a Scheduled Tribe

- d C. Constitution of India — Arts. 341, 342, 15(4), 16(4) and 16(4-A) — Object of, restated

The sole question involved in the present appeal was whether the offshoot of the wedlock between a tribal woman and a non-tribal man could claim status of Scheduled Tribe and get the Scheduled Tribe certificate.

- e The appellant was the offshoot of the wedlock between L and K. Husband L belonged to a Forward Class whereas wife K belonged to a Scheduled Tribe. By an order dated 7-8-1992 a Scheduled Tribe certificate was issued to the appellant by SDM on the ground that the mother of the appellant belonged to Oraon Tribe which was recognised as a Scheduled Tribe in the State concerned. The appellant appeared for the Civil Service Examination conducted by the Union Public Service Commission claiming himself to be a Scheduled Tribe candidate. He was

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† From the Judgment and Order dated 3-12-1999 of the Madhya Pradesh High Court in LPA No. 138 of 1999