

Paras Ram v. Shiv Chand, etc. (Grover, J.)

of limitation is provided elsewhere in the First Schedule. In this Article the limitation is six years from the time when the right to sue accrued to the plaintiff and that would be the 28th of January, 1963, when the double payment was made to the defendant. The suit having been brought on 21st March, 1964, was, therefore, well within limitation.

In view of what I have said above, this revision petition fails and is dismissed. There will, however, be no order as to costs in this Court.

B.R.T.

ELECTION PETITION

Before A. N. Grover, J.

PARAS RAM,—Petitioner

versus

SHIV CHAND AND OTHERS,—Respondents

Election Petition No. 14 of 1967.

October 24, 1967

Constitution of India (1950)—Art. 341—Constitution (Scheduled Castes) Order (1950)—Part X (Punjab), item 9—Mochis—Whether a Scheduled Caste same as Chamars—Census Act (XXXVII of 1948)—S. 15—Reference to census Report—Whether barred.

Held, that although the Chamars and Mochis, who were workers in tanned leather, were originally of the same race or at all events closely connected, the Mochis developed into a distinct caste or sub-caste in the course of years. The Mochis are not of the same Caste as Chamars and are not included in item No. 9 of Part X (Punjab) of the Constitution (Scheduled Castes) Order, 1950, and are, therefore, not a Scheduled Caste.

Held, that section 15 of the Census Act, 1948, does not bar a reference to any historical or statistical or similar information relating to tribes, castes or religions of persons inhabiting a particular area and it only bars inspection of any

book, register or record made by a Census Officer in the discharge of his duty as such. That must have reference only to the original books or documents which the Census Officer himself prepared while carrying out the task of taking census in accordance with the provisions of the Act.

ELECTION PETITION under Chapter II of Part VI of the Representation of the People Act, 1951, and under Sections 80 and 81 of the said Act and various other sections of the said Chapter praying that the election of respondent No. 1 Shiv Chand be declared void.

N. L. DHINGRA, ADVOCATE, for the Petitioner.

C. L. LAKHANPAL AND I. S. VIMAL, ADVOCATES, for Respondent No. 1, M. R.

AGNIHOTRI, K. P. BHANDARI AND I. B. BHANDARI, ADVOCATES, for Respondent No. 8.

JUDGMENT

GROVER, J.—The petitioner and respondents 1 to 7 contested the elections held in February, 1967, from the Lambi Assembly Constituency (Reserved Seat) in the district of Ferozepore. Respondent No. 1 secured 11,982 votes and was declared to have been elected. It is wholly unnecessary to set out in their entirety the pleas taken in the election petition because at the stage of arguments the controversy was confined to the narrow question whether the nomination papers of respondent No. 8 Kishan Lal were rejected by the Returning Officer at the time of scrutiny in accordance with law. Mr. Nand Lal Dhingra for the petitioner made a statement at the Bar that he did not propose to press the allegations relating to corrupt practices which had been made in the petition.

According to the petitioner, respondent No. 8 Kishan Lal is a Hindu and is a Chamar by caste. As such he belongs to Scheduled Castes within the meaning of paragraph 2 read with Part X of the Schedule to the Constitution (Scheduled Castes) Order, 1950 (to be referred to as the Order) issued under Article 341 of the Constitution. Kishan Lal respondent had filed a declaration under section 33(2) of the Representation of the People Act, 1951 (hereinafter called the Act), stating his caste to be "Chamar" which is mentioned in Part X (Punjab) of the schedule to the Order where at item No. 9, the following castes are mentioned:—

"Chamar, Jatia Chamar, Rehgar, Raigar, Ramdasi or Ravidas". It was alleged that the Returning Officer at first accepted the

Paras Ram v. Shiv Chand, etc. (Grover, J.)

nomination papers of respondent No. 8 when the scrutiny was held on 21st January, 1967, but subsequently on an objection having been raised by respondent No. 1 that the former was not a member of the Scheduled Castes the proceedings were adjourned for decision to 22nd January, 1967, on which date after admitting evidence the same were rejected on the ground that respondent No. 8 belonged to Mochi caste. The petitioner maintains that Chamar and Mochi are not two separate castes and that the word "Mochi" is merely descriptive of the profession of shoe-making.

Although all the respondents were duly served, only the returned candidate, respondent No. 1 and Kishan Lal respondent No. 8 filed written statements and participated in the proceedings. According to respondent No. 1, Kishan Lal respondent No. 8 is a Hindu but he is not a Chamar by caste. It was denied that he belonged to the Scheduled Castes within the meaning of the Order. In paragraph 4(i)(a) of the written statement, it was averred *inter alia* that after the promulgation of the Order in 1950 and the notification issued, respondent No. 8 and members of his family started changing their caste by describing themselves as Mochis and Chamars. Actually they do not belong to either of these two castes. The said respondent was trying to take full advantage of the fact that he was doing business in leather goods and quite often people called such leather merchants as Mochis. In any event, so it was pleaded, respondent No. 8 was not a Chamar even if he could prove that he was a Mochi. It was denied that the Returning Officer had at first accepted the nomination papers and then proceeded to admit evidence and give his decision rejecting the nomination papers. Kishan Lal, respondent No. 8, in his written statement, supported the allegations contained in the petition. It was asserted by him that he was a Chamar by caste and was doing the business of manufacturing and selling *desi* leather shoes. Furthermore, he claimed that there was absolutely no difference between a Chamar and a Mochi and that the distinction was wholly artificial.

The petitioner filed a replication in which the position taken up in the petition was reiterated. It was reasserted that Mochi and Chamar constituted one and the same caste.

In all five issues were framed out of which only the first four survive for determination. These are:—

- (1) Is respondent No. 8 Kishan Lal a Hindu Chamar by caste which is a Scheduled Caste within the meaning of Part X

of the Schedule to the Constitution (Scheduled Castes) Order, 1950 ?

- (2) Was the nomination paper of respondent No. 8 Kishan Lal accepted by the Returning Officer and if so, whether the Returning Officer had the power of reviewing his Order ?
- (3) Has the nomination paper of respondent No. 8 Kishan Lal been wrongly rejected ? If so, is the election of the returned candidate void ?
- (4) Is Chamar or Mochi one and the same caste and a Scheduled Caste within the meaning of Part X of the Schedule to the Constitution (Scheduled Castes) Order, 1950 ?

The second and the third issues can be conveniently disposed of first. It is indisputable that if the nomination papers of respondent No. 8 were illegally or wrongly rejected by the Returning Officer, the election of the returned candidate would be liable to be set aside as void in view of the provisions contained in section 100(1) (c) of the Act. The pleas on the basis of which issue No. 2 was framed involved the question whether the Returning Officer, Shri G. D. Bhasin, Magistrate 1st Class, Fazilka, had at first accepted the nomination papers of respondent No. 8 and then rejected them by reviewing his previous order. Annexures "A" and "C", which have been filed with the petition, are admittedly the true copies of the orders made by the Returning Officer on 21st January, 1967 and 22nd January, 1967, respectively. The order made on the first date runs as follows :

"I have examined this Nomination Paper in accordance with section 36 of the Representation of the People Act, 1951 and decide as follows :—

Accepted.

P. S. Before the Nomination Paper could be accepted and signed in token thereof, it was argued that Shri Kishan Lal is a Mochi which is not a Scheduled Caste. Adjourned for proof of a decision for 22nd January, 1967 at 2 P.M."

On 22nd January, 1967, the contending parties produced certain documents in the shape of school certificates as also birth certificates etc. The Returning Officer was of the view that the castes Chamar and

Paras Ram *v.* Shiv Chand, etc. (Grover, J.)

Mochi did not mean the same thing because in what he calls the Punjab List Mochi had been described as a backward class and Chamar as a Scheduled Caste. After discussing the documentary evidence which had been placed before him, the Returning Officer held that Kishan Lal belonged to the Mochi caste and not to the Chamar caste and, therefore, was not entitled to contest from the Reserved Constituency, Lambi.

Now, the petitioner did not examine the Returning Officer in evidence for the purpose of substantiating his allegation that the nomination papers of respondent No. 8 had at first been accepted and were subsequently rejected by way of review of the previous order. Shri G. D. Bhasin had been summoned and was actually produced as P.W. 4 without oath for production of the records relating to the elections from the Lambi Assembly Constituency but, as stated before, he was not asked to testify on oath to the course of the proceedings relating to scrutiny on 21st and 22nd January, 1967. Kishan Lal respondent No. 8 was examined by the petitioner as P.W. 8. He stated that at the time of scrutiny of the nomination papers the Returning Officer at first announced orders accepting his nomination. Then an objection was raised by respondent No. 1 upon which the Returning Officer adjourned the matter to the next date. After examining evidence led by the parties on the adjourned date he rejected the nomination papers. He, however, admitted in cross-examination that when the nomination papers were being scrutinised an objection was raised when he was writing the order. According to the petitioner who appeared as P.W. 11, the nomination papers of respondent No. 8 were accepted and when the candidates were about to leave, an objection was raised by respondent No. 1. Thereupon the Returning Officer adjourned the proceedings. The kind of evidence which has been produced for the purpose of establishing that the Returning Officer had at first given a decision and had announced the same accepting the nomination papers of respondent No. 8 is of a very weak nature, apart from being interested. The orders made by the Returning Officer appear to indicate that he had at first examined the nomination papers of respondent No. 8 and written the word "Accepted" but before he signed the order an objection was raised that Kishan Lal was a Mochi and did not belong to the Scheduled Castes. Thereupon he adjourned the proceedings to 22nd January, 1967 for proof. On the face of it the order shows that he never signed or announced the order "Accepted" and that while he was writing the order it was argued that Kishan Lal was a Mochi and, therefore, he gave an opportunity to the parties

to prove their rival contentions. There was no question whatsoever of reviewing an order which had been made and announced. Respondent No. 1 Shiv Chand, who appeared as R.W. 7, has clearly stated that the Returning Officer had written the word "Accepted" on the nomination papers of Kishan Lal but at that very time objections were pressed and the Returning Officer adjourned the decision to the next date. In cross-examination he stated that the Returning Officer had not announced that he had accepted the nomination papers of Kishan Lal but he had written the word "Accepted". This fact was known to him because he was sitting next to the Returning Officer. In view of the above state of evidence, Mr. Nand Lal Dhingra for the petitioner quite properly and rightly did not seriously press issue No. 2 which is decided against the petitioner.

Under issues 1 and 4 which may be dealt with together, three questions were canvassed:

- (1) Whether Chamar and Mochi constitute one and the same caste and the word "Mochi" is merely descriptive of the profession of shoe-making?
- (2) Whether as a matter of fact respondent No. 8 Kishan Lal is a Chamar by caste?
- (3) If Kishan Lal is not Chamar by caste and he is a Mochi, whether he would still be a member of the Scheduled Castes within the meaning of Part X of the Schedule to the Order.

In the Gazetteer of the Ferozepore District 1888-89, in table No. IX showing major castes and tribes the total population of Chamars is stated to be 13,501 out of whom only 74 were Muslims. The population of Mochis is given as 18,386 out of whom under the column of Males by Religion Hindus, the entry is Nil. In the Punjab District Gazetteers relating to Ferozepore District, Volume XVI B, Part B published in the year 1913, table 15 relating to tribes and castes gives the break-up of the Chamar tribe. The District totals in 1911 showed that the total population of Chamars was 32,134 out of whom 24,718 were Hindus, 7,403 Sikhs and only 13 Mohammadans. The total population of Mochis was shown as 22,884 out of whom Hindus were 1,133, Sikhs 11 and Mohammadans 21,740. In Volume XVII of the Census of India, 1931 (Punjab), Part II, the total population of

Paras Ram v. Shiv Chand, etc. (Grover, J.)

Hindu Chamars in the Province of Punjab was shown as 366,739 males and 318,224 females. The total population of Mochi Hindus was 3,081 males and 1,519 females. Mochi Muslims were 251,102 males and 209,914 females. In the Punjab District Gazetteers, Volume XI, Part B, relating to Ferozepore District published in the year 1935 in table 15 at page LIII in 1921 the total population of Chamars was given as 39,447 consisting of 32,520 Hindus, 6,916 Sikhs and 11 Mohammadans. Similarly, in that year the total population of Mochis is shown to be 24,384 out of whom 1,084 were Hindus, 26 Sikhs and 23,274 Mohammadans. In the Punjab District Gazetteers, Volume XXX-A, relating to Ferozepore District published in 1915, the figures which are given are somewhat different at page 102. It is stated there that the Chamars comprised 32,134 persons being 3 per cent of the total population. The break-up of the population of Chamars and Mochis as given there is as follows:—

<i>“Chamars</i>		
Hindu	...	24,718
Sikh	...	7,403
Mohammadans	...	13
<i>Mochis</i>		
Hindu	...	243
Sikh	...	334
Mohammadans	...	21,813”

It has further been stated—

“All the leather work is done by the Chamars or Mochis, and they also work as labourers in the fields for wages in money or in kind. But in this district many of the Chamars are ordinary tenants, and have given up leather work for agriculture. With the Chuhras and Julahas they supply the bulk of the cultivating partners (*siris*) which are a feature of the agriculture of these parts. The Chamars also do the weaving of blankets and coarse cotton cloth in the Hindu villages, their place as weavers being taken in the Musalman villages by the Julahas. Possibly all the tribes, Chamar, Julaha and Mochi, engaged in weaving coarse cloth and working

in tanned leather, are originally the same race, or at all events closely connected, and perhaps of aboriginal descent. The Chamars eat the flesh of cows, buffaloes, goats and sheep, all cud-chewing animals, and work in their leather; but they will not eat the flesh of the camel or horse or work in leather made from their hides which are left to the Chuhras; nor will they eat fish, lizard or pig. The Chamars are practically all Hindu, and have a caste of Brahmans of their own called Chamarwa or Gurra Brahmans, who do not eat with Chamars and who wear the sacred thread, but are quite distinct from the ordinary high caste Brahmans."

In the Glossary of the Tribes and Castes of the Punjab and North-West Frontier Province, Volume III, based on the Census Report for the Punjab, 1883, by the late Sir Denzil Ibbetson and the Census Report for the Punjab, 1892, by the Hon. E. D. Maclagan, the caste or the tribe "Mochi" is discussed from page 123 to 124—

"(1) a blacksmith in the valley below Chitral and in the Gilgit and Indus valleys : see Chitrali; (2) in the rest of these Provinces the word Mochi is properly the name of an occupation, and signifies the worker in tanned leather as distinguished from the tanner. The Mochi not only makes leather articles, but he alone grains leather and gives it a surface colour or stain, as distinguished from a colour dyed throughout. In the east of the Punjab the name is usually applied only to the more skilled workmen of the towns. In the west, however, it is simply used to designate a Musalman Chamar; and the Mochi there is what the Chamar is in the east and belongs to the same caste, though his change of religion improves, though only slightly, his social position. * * * *

* * * * *

Mr. Christie, indeed, said that so soon as a Chamar, whether Hindu or Musalman, abandons menial offices and confines himself to working in leather, he rises in the

Paras Ram v. Shiv Chand, etc. (Grover, J.)

social scale and assumes the more respectable name of
Mochi. * * * * *

* * * * *

In Bawal the Hindu Mochis claim to be of the Kachhwaha
got, i.e. they assert a Rajput origin, and despise the
Chamars and Khatiks. Another *got* is Chauhan. In
Nabha the Hindu Mochis are said to affect Devi, Bhairon
and other Hindu gods. * * * *

Though most of them are Mohammadans, Hindu Mochis
are found in the south-east of the Punjab, where they
make boxes, saddles, etc., of leather, but not shoes.
Mohammadan Mochis have no such prejudice."

The tribe or caste "Chamar" is discussed at page 147 in Volume II
of the aforesaid Glossary—

"The Chamar is the tanner and leather-worker of North-
Western India, and in the western parts of the Punjab he
is called Mochi whenever he is, as he generally is, a
Musalman, the caste being one and the same. The name
Chamar is derived from the Sanskrit *chamakara* or
'worker in hides'. But in the east of the Punjab he is far
more than a leather-worker. He is the general coolie and
field labourer of the villages; and a Chamar, if asked his
caste by an Englishman at any rate, will answer 'Coolie'
as often as 'Chamar'. They do all the *begar*, or such work
as cutting grass, carrying wood and bundles, acting as
watchmen, and the like; and they plaster the houses with
mud when they need it. They take the hides of all dead
cattle and the flesh of all cloven-footed animals, that of
such as do not divide the hoof going to Chuhras. They
make and mend shoes, thongs for the cart, and whips and
other leather work; and above all they do an immense
deal of hard work in the fields, each family supplying each
cultivating association with the continuous labour of a
certain number of hands".

It may be mentioned that the figures which have been taken
from the Census Reports are being used for the purpose of seeing
the background and the development of the population of the castes

described as Chamars and Mochis in the Ferozepore District in particular, and in Punjab, in general. Mr. Nand Lal Dhingra has urged that under section 15 of the Census Act, 1948 no reliance can be placed on any census reports. According to that section, no person shall have a right to inspect any book, register or record made by a Census Officer in the discharge of his duty as such, or any schedule delivered under section 10 nor can any entry therein be admitted into evidence in any civil proceeding. In the present case there is no question of looking at any entry contained in any book, register, record or schedule prepared by or delivered to a Census Officer. The section, in my opinion, does not bar a reference to any historical or statistical or similar information relating to tribes, castes or religions of persons inhabiting a particular area and it only bars inspection of any book, register or record made by a Census Officer in the discharge of his duty as such. That must have reference only to the original books or documents which the Census Officer himself prepared while carrying out the task of taking census in accordance with the provisions of the Act.

My conclusion on the first question is that although, as stated in the Gazetteer of the Ferozepore District of 1915, the Chamars and Mochis, who were workers in tanned leather, were originally of the same race or at all events closely connected, the Mochis developed into a distinct caste or sub-caste in the course of years. It may be that the occupation of shoe-maker is closely associated with the word "Mochis" but it is well known that certain castes and sub-castes have come into existence as a result of following a particular profession or avocation or occupation. The figures relating to the population of Chamars and Mochis in the District of Ferozepore, seem to indicate that the Chamars were preponderantly Hindus and there appears to be a good deal of substance in the statement contained in the Gazetteer of 1915 that in Musalman villages, the place of Chamars as leather-workers had been taken by Mochis. At the same time it is significant that there were Hindus classified under the heading "Mochis" in the Ferozepore District as also in the whole of Punjab according to the figures mentioned at page 8 (*supra*). Mr. Dhingra for the petitioner has not been able to explain why from very early times Chamars and Mochis were shown as distinct castes or groups. Reference may also be made to the statement in the Glossary of the Tribes and Castes of the Punjab and North-West Frontier Province, Volume III (at page 11) wherein it is stated that as soon as a Chamar, whether Hindu or Musalman, abandons menial offices and confines

Paras Ram *v.* Shiv Chand, etc. (Grover, J.)

himself to working in leather, he rises in the social scale and assumes the more respectable name of Mochi and that in various parts of Punjab, Hindu Mochis asserted a Rajput origin. As regards Chamars, it is stated in the same Glossary that they remove the hides of all dead cattle and take the flesh of all cloven-footed animals and that they make and mend shoes, thongs for the cart, and whips and other leather work. In the Glossary at page 469 of the Census of India, 1911, Volume XIV, relating to Punjab, Part I: it is stated about Mochis that they are both Hindus and Mohammadans, there being only 195 Sikhs and that they had been returned all over the Province, excepting a few small States. In the east of the Punjab, the term was applied to the more skilled workmen of the towns. In the west, however, it was simply used to designate a Mohammadan worker in leather, whether it be the skinner, the tanner, or the shoe-maker.

The oral evidence on the point may be discussed. Nand Lal P.W. 6, an admitted relation of Kishan Lal, P.W. 8, stated that Mochis did not remove the skin of dead animals. He had also been to Hardwar where a Panda of the name of Roda Ram had the record of the Gotra of his family. Moreover, according to him at functions like marriages, etc., Pandits from the Arya Samaj or Sanatan Dharam were called. Kishan Lal, P.W. 8, while maintaining that Mochis not only made shoes but also mended them admitted that the Mochis used to remove the skin or hide of dead animals before but for some years past they were not doing so. He further admitted that the thread which was used for stitching was not put into the mouth by the Mochis. His answer to the question about Roda Pandit of Mochis at Hardwar was of a vague nature. As regards the Pandits who came on the occasions of marriages, etc., his reply was that such Pandits were Brahmans. P.W. 9, Gopal Chand also admitted that he had never seen any member of his family removing skin or hide from the dead animals. The evidence of Malkiat Singh (R.W. 1) Sub-Divisional Magistrate, who was a Chamar by caste, and of D. D. Kashyap, R.W. 3, a member of the Indian Police Service, was consistent and clear that the Mochis considered themselves a little higher in caste as compared with the Chamars and they only made shoes and did not do tanning nor did they do any work of repairing and mending old shoes while the Chamars did all that work. The Chamars removed the skins or hides from the dead animals but the Mochis did not do so. Atma Ram, R.W. 6, Panda of Hardwar, stated that he had a complete record relating to the Mochis who had

been coming to Hardwar and that he was a Prohit of Mochis and not Chamars.

As regards inter-marriages between Chamars and Mochis, which would be another test for determining whether Chamar and Mochi are distinct and separate castes, there was a good deal of conflict between the witnesses produced by the parties. According to Nand Lal, P.W. 6, there were inter-marriages between Mochis and Chamars and that social functions were attended both by Chamars and Mochis from the brotherhood but he admitted that he was married in a Mochi family and even Kishan Lal, P.W. 8, was married in a Mochi family. He could not recall any instance out of his immediate relations or the relations of Kishan Lal where a marriage had taken place in a Chamar family. P.W. 9, Gopal Chand also admitted that he was himself married in a family which carried on the work of shoe-making, though he maintained that they were Chamars. According to Kishan Lal, P.W. 8, Mochis and Chamars were inter-related. He gave an instance of Nopa Ram who was married in a family of Chamars but he had to admit that since Nopa Ram was doing the work of mending shoes he was called a Mochi. Out of the witnesses produced by respondent No. 1, I have been particularly impressed by the evidence of D. D. Kashyap, R.W. 3, who is a responsible member of the Indian Police Service and who is Ravidasia by caste, Ravidasias being Chamars. He stated that Mochis and Chamars never inter-married and they did not belong to the same brotherhood. From the evidence produced by both the parties it would seem that there are hardly any inter-marriages between Mochis and Chamars unless there is someone admittedly from the Chamar caste who merely carries on the profession or work of a Mochi. This would be another important determining factor for the purpose of deciding the question under consideration.

The general evidence of the witnesses produced by the parties with regard to Chamars and Mochis being separate castes is again conflicting but I see no reason to ignore what two responsible officers have stated who were admittedly Chamars and with regard to whom nothing has been shown as to why they should have made a statement that the Mochis and Chamars were distinct castes. I am referring to the evidence of Malkiat Singh, R.W. 1 and D. D. Kashyap, R.W. 3. At this stage reference may be made to the manner in which evidence was considered in *Bhaiya Lal v. Harikishan Singh* (1), in a similar matter. The controversy in that

(1) A.I.R. 1965 S.C. 1557.

Paras Ram *v.* Shiv Chand, etc. (Grover, J.)

case was whether the Dohar caste in the district of Sehore in Madhya Pradesh was different from the Chamar caste. Respondent No. 1 who contended that the appellant was not a Chamar and that the Dohar caste was different from the Chamar caste examined 13 witnesses belonging to the caste of the appellant. This is how their Lordships proceeded to discuss the evidence—

“The evidence shows that Chamars and Mochis of Sehore District lived in mohallas different from the mohallas in which the Dohars lived. Amongst the witnesses examined by respondent No. 1, the High Court has attached considerable significance to the evidence of Kishanlal, P.W. 4. He was the Secretary of the Dohar Samaj started by the appellant himself. The appellant was then the Sirpanch of that Samaj. It is true that the Samaj did not function for long; but the documents produced by respondent No. 1 to show the constitution of the Samaj clearly indicate that the appellant had taken a prominent part in that matter. Kishanlal's evidence is absolutely clear and unambiguous, He has stated on oath that the Dohar and the Chamar castes are entirely different. The Chamars, according to him, take off skins from dead animals, prepare shoes and do leather work; the Dohar, said the witness; is not the sub-caste of Chamar caste; there is no relationship of inter-dining and inter-marriage between the two. He denied that the Dohars are called Mochis. Mr. Chatterjee has not been able to show any reason why the evidence of this witness should not have been believed by the High Court. The witness belongs to the same caste as the appellant and there is no motive shown why he should take a false oath in respect of a matter which to persons of his status has great significance. It is not likely that a person like Kishan Lal would make false statement about his own caste”.

The evidence led by the respondent coupled with the admissions contained in the statements of the petitioner's witnesses including the petitioner himself establishes that the Chamars take off or remove skins from dead animals, do leather tanning, make and mend shoes, and put the stitching thread into their mouth whereas the Mochis only make new shoes and do leather work but do not do any of the

other things. It would also appear that the Mochis do not intermarry with the Chamars. As stated before I am generally impressed with the evidence of D. D. Kashyap, R.W. 3, who belongs to the same caste, namely, Chamar, to which the petitioner claims to belong, and Mr. Dhingra has not been able to show any reason why this witness should have given false evidence. It appears that the Hindu Mochis have developed into a higher caste or caste-group than that of the Chamars particularly in the matter of social status. The illustration given by D. D. Kashyap that just as Khatri consider themselves to belong to a higher caste than Aroras, similarly Mochis regard their caste as higher than that of the Chamars is quite apt. Moreover, as stated before, Nand Lal, P.W. 6, stated that at the functions like marriages in his family pandits from Arya Samaj or Sanatan Dharam were called.

A reference to the Order shows that almost in every other State with the exception of Punjab and Haryana there is a separate mention of Mochis even though the caste "Chamar" is mentioned. For instance, item 2 relating to the State of Andhra Pradesh is "Chamar, Mochi or Muchi". Item 4, however, relating to Bihar and Madras is "Chamar or Mochi", although there is a separate classification given with reference to districts. As regards Rajasthan, item 16 runs thus:—

"Chamar, Bhambhi, Jatav, Jatia, Mochi; Raidass; Raigar or Ramdasia."

In Gujrat, however, in the district of Danga and Umbergaon Taluka of Surat District, Mochi is shown as a separate entity from Chamar. The entries relating to Punjab have already been given and as regards Haryana after the reorganisation of the erstwhile State of Punjab, they are the same as Punjab and there is no mention of Mochi therein. It is unnecessary to mention about all the other States except the Union Territories of Delhi and Himachal Pradesh. As regards the former, entry No. 10 is "Chamar, *** ***, Mochi, *** ***". The position relating to Himachal Pradesh is interesting indeed. In the notification issued, it is stated:—

"Throughout the Union Territory except the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966. * * * *"

* * * * *

14. Chamar, Mochi, Ramdasi, Ravidasi or Ramdasia."

Paras Ram v. Shiv Chand, etc. (Grover, J.)

Now, as regards the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966, entry 9 does not contain Mochi. These territories formed part of the erstwhile State of Punjab before the enactment of the Punjab Reorganisation Act, 1966. The entries in the Order have been referred to by me for a two-fold purpose. The first is to examine the rival contentions of the counsel based on them. Counsel for the petitioner has urged that where Mochi and Chamar have been specified under the same heading, it should be held that the same caste bore different names. In *Bhaiya Lal's case*, it has been stated at page 1560 that the Order has taken good care to specify different castes under the same heading where enquiry showed that the same caste bore different names, or it had sub-castes which were entitled to be treated as Scheduled Castes for the purposes of the Order. Particular mention was made by their Lordships of item 2, entry 3 in the district of Datia which referred to Chamar, * * *, Mochi, * * *. Since there is no mention of Mochi under the same heading "Chamar" in the entry relating to Punjab in the Order, it is not possible to accede to the contention that it is the same caste bearing different names. On the contrary, it can well be said that so far as Punjab is concerned, Mochi was not considered to be a different name of the same caste, namely, the Chamar and, therefore, the entries in the Order, can hardly be of much assistance in determining whether Mochi and Chamar are different names of the same caste. The other purpose for which reference has been made to them relates to question No. 3 which may be conveniently disposed of at this stage. The point for consideration is whether a Mochi would be a member of the Scheduled Castes in Punjab within the meaning of Part X of the Schedule to the Order, although that caste is not specifically mentioned there. In *Bhaiya Lal's case* (supra) their Lordships have pointed out that the plea that the Dohar caste is a sub-caste of the Chamar caste cannot be entertained in view of the Order issued by the President under Article 341 of the Constitution. In order to determine whether or not a particular caste is a Scheduled Caste within the meaning of Article 341, it has been emphasised by their Lordships that one has to look at the public notification issued by the President in that behalf. Their Lordships proceeded to say:—

"In the present case, the notification refers to Chamar, Jatav or Mochi, and so in dealing with the question in dispute between the parties, the enquiry which the Election

Tribunal can hold is whether or not the appellant is a Chamar, Jatav or Mochi. The plea that though the appellant is not a Chamar as such, he can claim the same status by reason of the fact that he belongs to the Dohar caste which is a sub-caste of the Chamar caste, cannot be accepted. It appears to us that an enquiry of this kind would not be permissible having regard to the provisions contained in Article 341”.

Their Lordships distinguished the decision in *B. Sasavalingappa v. D. Munichinnappa* (2), on the ground that there were special and unusual circumstances in that case which justified the High Court in holding that Voddar caste was the same as the Bhovi caste within the meaning of the Order. The view expressed in *Bhaiya Lal's case* would thus greatly stand in the way of the petitioner for establishing that although Mochi is not included in the entry relating to Punjab in the Order, Kishan Lal should still be deemed to have been a member of the Scheduled Castes within the meaning of the Order. Counsel for the petitioner has relied a great deal on the other decision in *B. Sasavalingappa's case* (supra). In that case it was held that Voddar caste of the Mysore State before the States Reorganisation in 1956 was the same as the “Bhovi” caste—mentioned in the Constitution (Scheduled Castes) Order, 1950. It was, however, laid down that ordinarily it was not open to give evidence that the Voddar caste was the same as the Bhovi caste specified in the Order because Voddar caste was not mentioned (after the Bhovi caste) but difficulty arose in the case of Mysore State as it was before the States Reorganisation in 1956 from the fact that there was no caste known as Bhovi caste at all although the Order referred to such a caste. It was said that in such circumstances it must be accepted that there was some caste which the President intended to include after consultation with the Rajpramukh in the Order and, therefore, the only course open to courts to find out which caste was meant by Bhovi was to take evidence in that behalf. I do not consider that the decision in this case can be of any avail to the petitioner who in the absence of any special or peculiar circumstances of the nature obtaining in that case could not even be allowed to give evidence or to show that for the purposes of the Order Mochi was the same caste as Chamar and that even if Kishan Lal respondent No. 8 was a Mochi, he belonged to the Scheduled Castes notified in the Order.

(2) A.I.R. 1965 S.C. 1269.

Paras Ram *v.* Shiv Chand, etc. (Grover, J.)

Question No. 2 may now be decided. It has been asserted on behalf of the petitioner that respondent No. 8, Kishan Lal, is a Chamar by caste. The evidence which has been led by the petitioner in support of this case is of the following three kinds:—

- (a) The acceptance of the nomination paper of Kishan Lal, Exhibit P. 2, which he filed as a member of the Scheduled Caste and which was accepted for the purpose of election to the Municipal Committee, Abohar, in 1961;
- (b) Entries from the school registers relating to the sons and several other relations of Kishan Lal; and
- (c) Oral evidence relating to the caste of Kishan Lal.

It appears that in the year 1961, Kishan Lal, whose father's name is Vishawa Nath, stood as a candidate for the Municipal elections from Ward No. 14, Abohar, as a member of the Scheduled Caste. P.W. 1, I. D. Kanwar, Incharge, Local Bodies, Ferozepore, stated that in accordance with the rules, Kishan Lal deposited Rs. 25 as security *vide* Exhibit P. 1, which was a special concession for members of the Scheduled Castes whereas the other candidates had to deposit Rs. 50. K. L. Nagpal, P.W. 2, was the officer who had been appointed for the purpose of scrutinising the nomination papers for election to the Municipal Committee. Exhibit P. 2 was the nomination paper filed by Kishan Lal as a member of the Scheduled Caste which was accepted by him and he was allotted the Congress symbol of "Two bullock and a yoke". There were 18 other candidates in all out of whom four belonged to the Scheduled Castes including Kishan Lal. The nomination paper of Darbari Lal was rejected in pursuance of the orders of the Sub-Divisional Officer but no one objected to the nomination paper of Kishan Lal and it was accepted. This is clear from the evidence of K. L. Nagpal, P.W. 2.

The declaration contained in Exhibit P. 2 by Kishan Lal was that he was a member of the Chamar caste which was a Scheduled Caste of the State of Punjab and this declaration was verified by a Magistrate of the Second Class. According to Kishan Lal, P.W. 8, the other Harijans who contested the Municipal election from Ward No. 14 against him did not raise any objection that he was not a Harijan and a member of the Scheduled Caste.

P.W. 5 Puran Chand, Headmaster of the Government Primary School No. 2, Abohar, produced copies of admission forms and school leaving certificates, Exhibits P. 12 to P. 15, relating to Chandar Mohan and Suraj Bhan, sons of Kishan Lal. In Exhibit P. 14 which is the admission form relating to Chander Mohan, the date of Chander Mohan's birth is stated to be 11th April, 1953. There was a column in this form in Hindi which originally read "Kaum Ya Jati Athwa Kabila". This was cut out in ink and on the top of it the word "Kaum" has been written. In this column the following entries appear:—

"Mazdoori, Jooti Banana, Chamar".

Exhibit P. 12 relates to Suraj Bhan, the other son of Kishan Lal in which the date of Suraj Bhan's birth is shown as 14th March, 1957. The column relating to "Kaum Ya Jati Athwa Kabila" has not been cut out in this form and under it appear "Chamar, Harijan". In column "Pita Ka Vyavsa" which is also to be found in the previous admission form, it is written in Exhibit P. 12. "Jooti Banana, Dukandar". Puran Chand, Headmaster, P. W. 5, stated that he joined the school on May 7, 1962. One of the sons of Kishan Lal was admitted before he joined the school and one was admitted afterwards. They left the school while he was still there. According to him Harijans were allowed concessions in the matter of fees and they were also given stipends. P.W. 3. Ghulam Janbaz Gill, Principal, Government Higher Secondary School, Abohar, produced Exhibits P. 3 to P. 11. These are the copies which had been prepared by him from the entries in the school records relating to Prithvi Lal, Hans Raj and Ram Narain who were Kishan Lal's uncle's sons (copies of the entries relating to them being Exhibits P. 3, P. 4, and P. 5), Nand Lal and Durga Dass who were Kishan Lal's father's sister's sons (copies of entries relating to them being Exhibits P. 10 and 11), and Gopal Chand, Birbal and Jagdish Chander who were Kishan Lal's nephews (Copies of entries Exhibits P. 6, P. 7 and P. 8). It may be mentioned that relationship with these persons has been given by Kishan Lal in his evidence. The caste is shown to be Chamar in all these entries. Unfortunately Gill who claimed to have brought the original records of the school

made several admissions which introduce a number of infirmities and make it somewhat difficult to accept the entries contained in Exhibits P. 3 to P. 11 as properly proved or even correct. Gill admitted that the copies had been prepared in his office and that he had not compared the entries in the copies with the original entries himself.

Now Exhibit P. 3 relates to Prithvi Lal P.W. 7. In the column of 'caste', the word "Chamar" is shown. Although Gill claimed that he had brought all the original registers, yet he had to admit that he had not brought the original register from which the entries had been copied out in Exhibit P. 3. He further stated that in the register marked 'A' at serial No. 9659, there was an entry relating to Prithvi Lal but the caste was not entered as there was no column for it. As regards Exhibit P. 4, which contains school entries relating to Hans Raj brother of Prithvi Lal P. W. 7, Gill stated that it had been prepared from the register marked 'C'. At serial No. 7050 in that register, the word "Harijan" appeared in the column of 'Caste' and the word "Shoe-maker" with the word "Chamar" was to be found in the column of 'Occupation'. The word "Chamar" was in a different ink though the word "Shoe-maker" was in the same ink as the word "Harijan". As regards Exhibit P. 5 which contains entries relating to Ram Narain, son of Sohan Lal, Gill stated that in the original register marked 'C' the entry at serial No. 7018 showed that in the column against 'Caste', after the word "Harijan", the words "Ramdasia Chamar" appeared, and that the word "Chamar" appeared to have been subsequently added though it was in the same ink. According to him that word was below the line because there was no other room for it. In the copy Exhibit P. 5, however, the words "Harijan" and "Ramdasia" has not been mentioned. He could not explain why the word "Chamar" appeared at two places, because those entries were not made in his time. The other entries contained in Exhibits P. 6, P. 7 and P. 8 were different like, "Harijan Chamar" "Chamar and Harijan", respectively. In Exhibit P. 9, relating to Munshi Ram, there was no entry in the register marked 'B' in the column which was meant for caste but there was an entry in the column 'Father's Occupation'. "Shoe-maker and Chamar" in the copy Exhibit P. 9, the word "Shoe-maker" was shown in the column of 'Father's Occupation' and the word "Chamar" was given in the column of 'Caste'. According to Gill this copy had not even been prepared by him and he had been supplied the same by the counsel for the petitioner and asked to compare it with the original entries in the register in Court. He

admitted that Exhibit P. 9 was not the exact copy of the entries in the original register and that the word "Chamar" in the register marked 'B' relating to Munshi Ram was in different ink from the ink used in writing the other words. Moreover, the word "Chamar" seemed to have been added subsequently.

Mr Dhingra says that nothing has been brought out in cross-examination which may throw any doubt on the entries contained in Exhibits P. 6, P. 7, P. 8 and P.10 and, therefore, at least they should be accepted as correct. It seems to me that in view of the entire evidence of Gill and the fact that he himself never prepared the copies of the entries or even compared them with the original entries and the omissions, additions and alterations which are to be found even in the original registers, it will be altogether unsafe to place any reliance on them. It is true that some of the persons with regard to whom the entries have been produced, have appeared as witnesses. P. W. 7, Prithvi Lal stated that in the school registers, his caste was entered as "Chamar". In cross-examination he stated that the entries in the school registers must have been made at the instance of his father who was alive and was living at Abohar. Gopal Chand P.W. 29, whose younger brother was Birbal, also stated that his caste was Chamar in the school registers but he went on to add that "I say this because I was getting a stipend for being a member of the Scheduled Caste. I say for the same reasons that Birbal's caste was also entered as Chamar in the school registers". I am not at all satisfied that the evidence of these witnesses would establish the correctness of the entries which have been produced relating to them because admittedly the entries were not got made at their instance. Even if it be assumed that the entries relating to these persons in the school registers showed that their caste had been entered as Chamar, the same reasoning regarding weight of evidence which will be discussed with reference to the admission forms, etc., of Kishan Lal's sons, Exhibits P. 12 to P. 15, will equally be applicable to them. However, there does not appear to be any serious infirmity with regard to the admission forms and school leaving certificates relating to Chandar Mohan and Suraj Bhan, sons of Kishan Lal of which the copies were prepared by Puran Chand, P. W. 5, so far as proof or correctness is concerned.

Coming to the oral evidence, Nand Lal, P. W. 6, stated that Kishan Lal was a Chamar and so was he. His evidence has, however, been discussed at an earlier stage where he admitted that he

Paras Ram *v.* Shiv Chand, etc. (Grover, J.)

was married in a Mochi family. Kishan Lal had also been married in a Mochi Family. According to him, he could not recall any instance out of his immediate relations or the relations of Kishan Lal where a marriage had taken place in a Chamar family. He, however, explained that since he and Kishan Lal came from families which were doing the work of shoe-making, they were called Mochis. Gopal Chand, P. W. 9, also stated that Kishan Lal who was his uncle, was a Chamar by Caste. He, however, admitted that he had never seen in his family any one removing skin or hide from the dead animals and that he was himself married in a family which carried on the work of shoe-making though he added that they were Chamars. According to him, his uncle Manna Ram's daughter, named Bhagwanti was married to one Ram Kumar at Fazilka who was a Chamar, Kishan Lal P. W. 8, apart from proving the various entries in the school registers relating to his sons and relations, categorically affirmed that he was a Chamar. He admitted that members of the Scheduled Castes were given some special concessions by the Education Department particularly in the matter of fees and they also got special privileges regarding appointments to service. In cross-examination he admitted that the entries contained in Exhibit R. 3, related to the birth of his daughter but said that the person who gave the information did not state his caste correctly. Similarly Exhibit R. 4 contained entries relating to the birth of his son but according to him the caste had been mentioned wrongly. The same was the position relating to the entries in R. 5. These are the documents on which the Returning Officer had largely relied for holding that Kishan Lal was a Mochi and not a Chamar by caste. It may be mentioned that in all these documents (Exhibits R. 3, R. 4 and R.5), the person who gave information was either the Dai or the nurse who had brought forth the child and it has not been shown that all the information relating to caste, etc., embodied in these documents which otherwise would have been of much evidentiary value was furnished either by Kishan Lal or any member of his family.

The learned counsel for the petitioner has relied a great deal on the first part of the evidence relating to the assertion by Kishan Lal of his claim to be a member of the Scheduled Caste being a Chamar and the acceptance of that claim at the time his nomination papers were accepted for election from ward No. 14, Abohar, to the Municipal Committee, Abohar. He has further laid stress on declarations contained in the admission forms filled up by Kishan Lal, the first one being in the year 1959, relating to his sons Chandar Mohan and Suraj

Bhan in which the caste was given as Chamar. He has next sought to derive a good deal of support from the evidence of the witnesses already mentioned who are close relatives of the petitioner and whose caste was entered as Chamar in the school registers at the time of admission. On the other hand, the counsel for the respondent says that the entries in the school registers, Exhibits P. 3 to P. 14 should be completely ruled out as unreliable and that so far as the declarations contained in the nomination papers filed in 1961 and the admission forms relating to the sons of Kishan Lal are concerned, they were all statements or admissions in favour of Kishan Lal and were made with the specific object of gaining certain advantages in the matter of concessions in school fees and obtaining stipends meant for members of the Scheduled Castes. The oral evidence of relations of Kishan Lal which has been produced, is characterised as partisan, interested and unreliable. It has also been pointed out that there are a number of facts which stand admitted from the evidence led by the petitioner which go to support the case of the respondent that Kishan Lal is a Mochi and not a Chamar by caste.

Now, the documentary evidence, which has been produced by the petitioner and on which reliance can well be placed on his behalf, consists of the declarations made by Kishan Lal at the time of admission of his sons Chandar Mohan and Suraj Bhan into the Government Primary School, Abohar, and at the time of nomination for the Municipal elections to the Abohar Municipal Committee in 1961 that he was a Chamar by caste. Mr. Nand Lal Dhingra made no attempt nor did he cite any authorities to invoke the provisions of section 157 or section 13 of the Evidence Act for the purpose of showing that these declarations were admissible for corroborating Kishan Lal's statement made in Court and for showing that on a previous occasion in 1961 he asserted his claim to stand for elections to the Municipal Committee as a member of the Scheduled Caste which claim or right was accepted by the competent authority. But this evidence even if taken into consideration and the oral evidence led by the petitioner seem to suffer from certain infirmities and there are other facts and circumstances which have been established on the record which cannot be ignored while deciding whether it has been proved that Kishan Lal is a Chamar by caste and was thus entitled to the acceptance of his nomination papers as a member of the Scheduled Castes. I propose to give them below seriatim :—

- (1) It is common ground, and even the witnesses of the petitioner have so stated, that members of the Scheduled Castes

Paras Ram v. Shiv Chand, etc. (Grover, J.)

were given special concessions by the Education Department in the matter of fees and were entitled to special stipends meant for Harijans. They also enjoyed certain reservations and privileges in the matter of appointments to service. Apart from that, if any one had political ambitions, he could avail of the benefit of the seats reserved for Scheduled Castes known as the reserved seats for elections to the Local and Legislative Bodies. Thus, if a person could avail of those privileges by declaring that he belonged to a certain caste which was included among the Scheduled Castes, particularly when Mochis and Chamars had either common origin or the Mochis formed themselves into a distinct and separate caste or group out of the Chamar caste, that person would have little hesitation in giving a caste which would entitle him to all those benefits. For this reason it could well be that Kishan Lal gave his caste as Chamar when he got his sons admitted into school.

- (2) It stands established that even when in 1961 Kishan Lal stood for election to the Municipal Committee, Abohar, he had to deposit a sum of Rs. 25 only as security as he had declared that he was a member of the Scheduled Caste whereas the candidates who did not belong to the Scheduled Castes, had to deposit a sum of Rs. 50. This would show that apart from being able to stand as a candidate from the reserved constituency, Kishan Lal availed of the concession even in the matter of depositing security. He, therefore, stood to gain a good deal of advantage by declaring that he was a Chamar. The fact that the other three Harijan candidates did not raise any objection on the ground that he was a Mochi and was, therefore, not entitled to stand for election as a member of the Scheduled Caste is, to my mind, of a neutral character. There is nothing to indicate that any one of them knew his real caste and none of them has been produced for the purpose of establishing that he did not object because it was within his knowledge that Kishan Lal's real caste was Chamar.
- (3) Nand Lal P.W. is a very close relation of Kishan Lal. As stated before, he was married in a Mochi family and

so was Kishan Lal and he could not give any instance out of his immediate relations or the relations of Kishan Lal where a marriage had taken place in a Chamar family. Kishan Lal's statement that his brother-in-law Nopa Ram was married in a family of Chamars can hardly be relied upon in the presence of Nand Lal's statement as the latter would certainly have known about such a marriage if it had taken place in the family of Chamars. The significant fact is that Nand Lal P. W. 6, Kishan Lal P. W. 8 and Gopal Chand P. W. 9, had to admit that they were married in Mochi families or at least families which carried on the work of shoe-making, though according to them those were families of Chamars. It appears to me that even the evidence of the petitioner's witnesses establishes that Kishan Lal and his relations have been marrying in families who were Mochis.

- (4) Kishan Lal P.W. 8 admitted in cross-examination that the name of his father-in-law was Gobind Ram and the name of the elder brother of Gobind Ram was Onkar Mal. The following part of his further statement in cross-examination may be reproduced in his own words :—

“It is possible that Onkar Mal, who died about 5/6 years ago, used to describe himself as a Mochi. It is possible that he donated a sum of Rs. 151 for the Gaushala at Abohar. I do not know if there is any stone fixed outside the Gaushala containing his name. I have not seen any stone bearing the inscription as it appears in photograph marked ‘D’. I do not know whether my father-in-law used to call himself as a Mochi or Chamar while he was alive. He died about four or five years ago.”

Respondent No. 1 produced a photograph, Exhibit R.7, the negative of which is Exhibit R.6, of the inscription on the pillar of the gate of Gaushala, Abohar, which was got proved by R.W. 5, Narinder Pal. During the course of arguments counsel for the petitioner admitted, after obtaining instructions from his client, that there was such an inscription on the pillar of the gate of the Gaushala wherein one of the names of the donors was mentioned to be

“Onkar Mal Mochi” and that it had reference to the same Onkar Mal whose name has been mentioned by Kishan Lal in his statement reproduced above. This shows two things, firstly, Kishan Lal has not been straightforward and truthful in his statement as he tried to give evasive replies relating to the aforesaid fact. Secondly, it stands proved that Onkar Mal, who was a brother, or, as has now been stated at the Bar, first cousin of the father-in-law of Kishan Lal, gave a handsome donation for the Gaushala where his name was inscribed “Onkar Mal Mochi”. It can well be said that he was generally known as Mochi although there is no evidence that Onkar Mal himself gave his caste as Mochi.

- (5) Nand Lal, P.W. 6 stated that Dhalia and Dail was the same *Gotra* and that Kishan Lal's *gotra* is Dail. Kishan Lal himself stated that his *got* was Dhalia which, according to him, is a *got* of Chamars. In the official reports of the Census of India relating to Punjab and its feudatories, Volume XXI, Part III, of 1891 in the Caste Index of Mochis it is to be found at page 264 that Dhalia is one of such sub-castes or *Gotras* of the Mohemmadan Mochis. As regards the Chamars, no such sub-caste is shown at page 62 where the following sub-castes of Chamars are mentioned:—

“Dhal, Dhale, Dhaliwal, Dhali,”

It is well known that there are many sub-castes common to Hindus as well as to Muslims, particularly because of the reason that many Muslims were converts from Hinduism. As has been stated by Prof. J. H. Hutton in his well-known book “Caste in India”, 1963, Edition, at page 2, that even a change of religion does not destroy the caste system. It would thus appear that the sub-caste or *Gotra* “Dhalia” was not such a sub-caste or *Gotra* of the Chamars at the time when the above census reports were published.

- (6) Again according to Nand Lal, P.W. 6, the members of his family were called Mochis and had a Panda at Hardwar of the name of Roda Ram who had the record of their *Gotras* including the *Gotra* “Dail” or “Dhalia”. Atma

Ram, R.W. 6, a Karinda of Roda Ram Panda, stated that the latter had died 12/13 years ago and that he had taken over his work after his death. According to this witness, Roda Ram was a Prohit of the Mochis of Abohar, Sirsa and Bangla Fazilka, etc.; and he had got a complete record in the books relating to the Mochis who had been coming to Hardwar and of their family trees. He further stated that the Gotra of Kishan Lal was entered as Dhalia in his Bahi. In his Bahi the caste "Mochi" was not written with reference to the family of Kishan Lal but the caste "Dhalia" was written. He admitted that in the whole of the Bahi he had not given the caste of any person as Mochi. But he knew from the Gotra whether a person was a Chamar or a Mochi. He maintained that Dail was not a sub-caste of Chamars. If Nand Lal, P.W. 6 had not admitted that Roda Ram Panda was the Prohit of his family, the evidence of R.W. 6, Atma Ram might have had less weight but in the face of admission of Nand Lal, P.W. 6, I find it difficult to disbelieve Atma Ram on the point that Roda Ram was the Prohit of Mochis. This would indicate that Kishan Lal himself as also his close relations like Nand Lal were Mochis who had a separate Panda at Hardwar of the name of Roda Ram.

- (7) Kishan Lal had to admit in a half-hearted way that Mochis like him did not remove the skin or hide from a dead animal. He further admitted that while making the shoes the thread which was used for stitching them was not put into the mouth by them except by the Chamars who were Keshdhari (Jatia Chamars). These admissions in the light of the other evidence, which has already been discussed, would be indicative of the fact that Kishan Lal belonged to a caste or group which was distinct and different from that of the Chamar.

For the above reasons I am satisfied that Kishan Lal has not been proved to be a Chamar by caste. The petition fails and it is dismissed with costs. Only the contesting Respondent No. (1) shall be entitled to the costs which are assessed at Rs. 712.55 including counsel's fees fixed at Rs. 500.00.