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Harshit Das Vs State Of Chhattisgarh

Writ Petition (C) No. 182 Of 2017

Court: Chhattisgarh High Court

Date of Decision: May 24, 2024

Hon'ble Judges: Parth Prateem Sahu, J

Bench: Single Bench

Advocate: Manoj V Paranjpe, Yashwant Singh Thakur, Supriya Upasane

Final Decision: Allowed

Judgement

,,

1. Challenge in this writ petition is to the order dated 26.12.2016 passed by the High Level Caste Certificate Scrutiny Committee (hereinafter shall be,,

referred to as Ã¢â‚¬Ëœthe CommitteeÃ¢â‚¬â„¢) by which the caste certificate of Scheduled Tribe issued in favour of petitioner has been cancelled on the,,

ground that she does not possess any document prior to Notification dated 06.09.1950 showing her caste to be Ã¢â‚¬ËœGondÃ¢â‚¬â„¢.,,

2. Facts relevant for disposal of this writ petition, in brief, are that petitioner claiming herself to be the member of Ã¢â‚¬ËœGondÃ¢â‚¬â„¢ community, which",,

comes within the category of Scheduled Tribe, has applied for issuance of a caste certificate and the same was issued in her favour by the District",,

Coordinator, Tribal Welfare Department, Raipur on 10.2.1984. Vide order dated 6.2.1984 petitioner was appointed as Deputy Teacher under reserved",,

category and posted at Primary Government Girls School, Basna, Mahasamund. On 1.9.2009 a complaint was received by the Chhattisgarh State",,

Scheduled Tribe Commission with respect to correctness of caste certificate of petitioner. The matter was handed over to the Vigilance Cell to inquire,,

into complaint and submitting its report. During course of inquiry, petitioner produced documents in support of her caste to be Ã¢â‚¬ËœGondÃ¢â‚¬â„¢, a",,

scheduled tribe. The Vigilance Cell after inquiry submitted report dated 6/7.1.2016 holding that the petitioner failed to produce any document prior to,,

year 1950 showing the caste of petitioner and her forefathers as Ã¢â‚¬ËœGondÃ¢â‚¬â„¢, hence, the caste of petitioner is not clear. On receipt of the vigilance",,

cell report, notice dated 18.3.2016 was issued to petitioner asking her to show cause as to why the caste certificate issued in her favour should not be",,

cancelled inasmuch as the same was obtained by her fraudulently. Petitioner did not submit any reply to show-cause notice. Thereafter, petitioner was",,

called for personal hearing on 3.12.2016 which was attended by her. Petitioner submitted copy of school leaving certificate of the year 1968 in which,,

her caste is mentioned as Ã¢â‚¬ËœGondÃ¢â‚¬â„¢, however, she did not submit any document prior to Notification 06.09.1950 showing her caste to be",,

Ã¢â‚¬ËœGondÃ¢â‚¬â„¢. By the order impugned, the Committee cancelled the caste certificate of petitioner. Petitioner filed present writ petition assailing",,

cancellation of her caste certificate and prayed for following relief:-,,

Ã¢â‚¬Å“1] That, this HonÃ¢â‚¬â„¢ble Court may kindly be pleased to writ/ writs, order/orders, direction/directions quashing the impugned order dated",,

226.12.2016 bearing No. C.G./ A.J.J./ 323/ 2009/ 2391 (ANNEXURE P/1) passed by High Power Certificate Scrutiny Committee Tribal Research,,

and Training Institute Raipur and all the consequential actions may also kindly be quashed and the respondent authorities may kindly be directed not to,,

take any further steps in pursuance of the order dated 26.12.2016.,,

2] That, this HonÃ¢â‚¬â„¢ble Court may kindly be pleased to grant any other relief (s) which is deemed fit and proper in the aforesaid facts and",,

circumstances of the case.Ã¢â‚¬â€‹,,

3. This writ petition came up for hearing on 25.1.2017 and an interim order in favour of petitioner was passed to the effect that no coercive steps shall,,

be taken against her pursuant to the impugned order. During existence of interim order, an order of termination of petitioner from service was passed",,

on 27.2.2017 which led the petitioner to file an application for amendment in writ petition seeking quashing of order dated 27.2.2017 (Annexure P-10),,

also. However, it appears from record that after passing of the order dated 27.2.2017, petitioner initiated proceedings for contempt and based on",,

submission made by learned counsel for petitioner herein, said contempt petition came to be disposed of directing contemnor to issue appropriate",,

remedial order taking note of interim order passed in favour of petitioner.,,

4. Learned counsel for the petitioner submits that petitionerÃ¢â‚¬â„¢s forefathers belonged to Gond caste, they migrated from Odisha and settled down in",,

District Mahasamund. The Competent Authority, Raipur, of the then State of Madhya Pradesh, after due verification held that petitioner belongs to the",,

scheduled tribe community i.e. Gond, and issued the caste certificate in her favour. On the basis of said certificate, petitioner secured employment as",,

a reserved category candidate on the post of Deputy Teacher. Upon receipt of complaint regarding caste of petitioner, the Sub-Divisional Officer (R),",,

Mahasamund conducted an inquiry and submitted his report dated 3.3.2000 to the Collector, Mahasamund that the petitioner belongs to the reserved",,

category of Ã¢â‚¬ËœGondÃ¢â‚¬â„¢. After submission of report in favour of petitioner, it was not open to the High Level Caste Scrutiny Committee to further",,

inquire into the caste status of petitioner. However, the Committee, without considering the documents submitted by petitioner showing genuineness of",,

her social status and without assigning any reason as to why the report of the Sub-Divisional Officer (R) Mahasamund did not suit it, passed the order",,

impugned canceling caste certificate of petitioner. He next contended that it was mandatory on the part of the respondents to have served a copy of,,

vigilance report along with show cause notice, but the said procedure having not been followed as the petitioner was not served with copy of vigilance",,

report at the time of issuance of show cause, therefore, there being violation of the mandate in case of Kumari Madhuri Patil vs. Additional",,

Commissioner, Tribal Development, reported in (1994) 6 SCC 241, the entire procedure adopted by the Committee got vitiated. He submitted that the",,

impugned order is illegal and arbitrary and has been passed in utter violation of the principle of natural justice. He submits that proper opportunity was,,

not given to the petitioner to submit her reply, adduce evidence and on the first day of appearance of petitioner, the case has been closed for final",,

orders. Thus, the respondents have not followed the procedure as prescribed by the Apex Court in the case of Madhuri PatilÃ¢â‚¬â„¢s case (supra).",,

5. Learned counsel for the petitioner submitted that the order passed by the Committee invalidating caste certificate of petitioner needs to be set aside,,

on the sole ground of defect in composition of the Committee. He submits that one of the members of the Committee namely Shri Ashish Kumar,,

Bhatt is shown to be functioning as Ã¢â‚¬ËœChairpersonÃ¢â‚¬â„¢ and Ã¢â‚¬ËœVice ChairpersonÃ¢â‚¬â„¢ of the Committee, which is not permissible.",,

6. On the other hand, learned State Counsel opposed the submissions of learned counsel for petitioner and submitted that submission of learned",,

counsel for petitioner that opportunity of hearing was not given to petitioner is not correct. A detailed inquiry was done into the matter, notices have",,

been issued to petitioner to which she has responded and her personal appearance was also sought for. During inquiry, petitioner did not produce any",,

document pertaining prior to year 1950 to show that she belongs to Ã¢â‚¬ËœGondÃ¢â‚¬â„¢ caste (Scheduled Tribe). After taking into consideration the entire,,

material placed before it including the report of Vigilance Cell, the Committee found that the petitioner does not belong to Ã¢â‚¬ËœGondÃ¢â‚¬â„¢ community",,

and accordingly, cancelled her caste certificate. Hence, the entire procedure as laid down in the case of Madhuri Patil (supra) has been followed by",,

the Committee before passing the order impugned. On a specific query being asked by this Court with respect to composition of the Committee, he",,

does not dispute that the person nominated as Chairperson and Vice-Chairperson in the Committee is one and the same.,,

7. I have heard learned counsel for the parties and perused the documents placed on record.,,

8. Before entering into merits of case, it would be profitable to see whether composition of the Committee invalidating the caste certificate of",,

petitioner was in accordance with the law or not.,,

9. The Supreme Court in the case of Madhuri Patil (supra) has streamlined the procedure for the issuance of social status certificates, their scrutiny",,

and their approval. In the said judgment, the State Governments have been directed to constitute a committee of three Officers namely (1) Additional",,

or Joint Secretary or any officer higher in rank of the Director of the concerned department (2) the Director Social Welfare/ Tribal,,

Welfare/Backward Class Welfare as the case may be, (3) and in case of scheduled castes, another officer, who has intimate knowledge in the",,

verification and issuance of the social status certificates, for verification of the caste certificate. Relevant portion of Para-13 of the decision in",,

Madhuri PatilÃ¢â‚¬â„¢s case (supra) reads as under:-,,

No.,Nominated officers in the Committee,Chairperson / Member

(1),(2),(3)

1.,"Principal Secretary / Secretary, Government

of Chhattisgarh, Tribal & Scheduled Caste

Development Department",Chairperson

2.,"Commissioner / Director, Tribal Research

and Training Institute, Chhattisgarh, Raipur",Vice Chairperson

3.,"Commissioner / Director, Tribal

and Scheduled Caste Development

Department, Chhattisgarh, Bilaspur.",Member Secretary

4.,"Commissioner / Director, Two officers

nominated out of Joint Director/ Deputy

Director/Deputy Director/ Assistant

Director/ Research Officer/Assistant

Research Officer, posted in Tribal Research

and Training Institute, Chhattisgarh, Raipur",Members

proceedings.,,

17. To hold the inquiry impartially and fairly, it is necessary that the Committee must be constituted in terms of the Notification dated 22.8.2013, that is",,

to say, Chairperson, Vice Chairperson, Member Secretary and Members of the Committee should be different persons, as mentioned in the",,

Notification dated 22.8.2013 because each of the Committee members has his own role to play drawing from his experience and knowledge and it is,,

the application of mind of all the members, will decide the fate of inquiry. If the composition is not complete as notified, it may result in imbalance in",,

the Committee and may lead to a skewed outcome. It is well settled that when a thing is required to be done in a particular manner then it must be,,

done in that manner only. In the matter of Nazir Ahmed v. King Emperor, reported in AIR 1936 PC 253 (2), it was observed that where a power is",,

given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.",,

Hence, in the opinion of this Court, one member of the Committee cannot act in dual capacity.",,

18. The composition of Committee for verification of social status certificate of petitioner being not in conformity with the Notification dated,,

22.8.2013, renders all subsequent steps invalid. It is well said axiom that Ã¢â‚¬Å“when the foundation falls, the edifice which has been developed on the",,

foundation, must go.""",,

19. Being so, for want of requisite quorum constituting a High Level Certification Scrutiny Committee, as prescribed in the Notification dated",,

22.8.2013 issued in terms of the decision of HonÃ¢â‚¬â„¢ble Supreme Court in case of Kumari Madhuri PatilÃ¢â‚¬â„¢s case (supra), the proceeding initiated",,

against the petitioner by the Committee which culminated into passing of impugned order invalidating her caste certificate, is not sustainable since it",,

has not been passed by the Committee having required quorum and therefore, the same is liable to be set aside.",,

20. In the above circumstance, I am of the considered opinion that there is no need to advert to all other questions, which had been argued by learned",,

counsel for the respective parties, touching the merits and demerits of the matter.",,

21. In the result, writ petition is allowed. Impugned order is quashed. The matter is remanded back for fresh consideration by the properly constituted",,

High Power Caste Scrutiny Committee in conformity with the Notification dated 22.8.2013 issued pursuant to the decision of HonÃ¢â‚¬â„¢ble Supreme,,

Court in case of Madhuri Patil (supra) and to pass fresh order after providing opportunity of hearing to the petitioner as envisaged under the Act of,,

2013 and the Rules of 2013.,,

22. Certified copy as per rules.,,