

Court No. - 38

Case :- WRIT - A No. - 12972 of 2023

Petitioner :- Dinesh Kumar

Respondent :- District Caste Scrutiny Committee And 4 Others

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh, Islam Ahmad

Counsel for Respondent :- C.S.C., Sunil Kumar Misra

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Indra Raj Singh, learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1, 2, 3, and 5 and Shri Sunil Kumar Mishra, learned counsel for respondent No. 4.

2. The caste certificate issued in favour of the petitioner in the year 2004 was cancelled, against which order, he filed Writ A No. 10466 of 2022 (Dinesh Kumar vs State of U.P. and 4 others), which was allowed by this Court by order dated 31.11.2022 taking into consideration the judgement of Apex Court in the case of ***Kumari Madhuri Patil and another vs Additional Commissioner, Tribal Development and others***, reported in 1994 (6) SCC 241. The Hon'ble Court was of the opinion that cancellation can be made by a Committee as per the said decision.

3. Shri Indra Raj Singh, learned counsel for the petitioner submits that in another case being Writ Petition No. 1611 (MB) of 2008 ***Taramuni Tharu vs State of U.P. and others***, the Division Bench by order dated 23.09.2010 issued directions to the State Government regarding creation of Appellate Forum against the decision of the Committee, which was directed to be formed under the order of Apex Court in the case of ***Kumari Madhuri Patil*** (supra). There is no dispute about the fact that the Appellate Forum

has already been created under the Government Order dated 27.01.2011, which comprises of Commissioner, concerned District Magistrate or anyone authorized by him not below the rank of Additional District Magistrate, the Officer nominated by the Commissioner and Deputy Director Department of Social Welfare, Scheduled Castes/Scheduled Tribes or Deputy Director Social Welfare Other Backward Classes in appropriate cases.

4. The grievance raised by means of the present writ petition is that the District Level Committee has cancelled the caste certificate of the petitioner on 01.06.2023, first order impugned and on the basis of the said order, services of the petitioner have been dispensed with by the second order impugned dated 18.07.2023.

5. Various submissions have been made by Shri Indra Raj Singh, learned counsel for the petitioner including the argument that the impugned order dated 01.06.2023 has been passed without providing copies of the documents relied upon against the petitioner and also that the Appellate Forum includes the District Magistrate himself who is one of the signatories of the order impugned and, hence, filing of appeal would be a futile exercise.

6. Per contra, learned Standing Counsel submits that the petitioner has already preferred an appeal vide Annexure No. 18 to the writ petition and the Appellate Forum has also been impleaded as respondent No. 3. He has otherwise supported the orders impugned on merits.

7. Shri Sunil Kumar Mishra, learned counsel for the respondent No. 4 submits that during the course of the enquiry by the concerned Officer, fabrication of high intensity has been reported against the petitioner on the basis of public documents and,

therefore, consequential order passed by the U.P.S.R.T.C. is in accordance with law.

8. Having heard the learned counsel for the parties, I find that merely because the District Magistrate is one of the signatories to the order impugned dated 01.06.2023, the decision has been taken by the District Level Committee, the District Magistrate or anyone Officer authorized by him being one of the members of the Appellate Forum would not render remedy of appeal as redundant, particularly considering the composition of the Appellate Forum and also the District Level Committee. The petitioner has already preferred an appeal, which according to him, is misconceived and not maintainable, however, the Court is not inclined to accept the submission of Shri Indra Raj Singh, learned counsel for the petitioner in this regard, but certainly the order terminating the services of the petitioner is dependent upon cancellation of his caste certificate and, hence, the decision by the Appellate Forum would have material bearing on the services of the petitioner.

9. The writ petition is **disposed of** directing the respondent No. 3, Regional Appellate Forum, Vindhyachal Region, Mirzapur to decide the appeal pending before him **before 15.01.2024** after providing full opportunity of hearing to the petitioner. The Appellate Forum shall ensure service of relevant documents upon the petitioner on the request of the petitioner-appellant during the course of hearing of appeal. The second order impugned dated 18.07.2023 shall remain subject to the order passed by the Appellate Forum.

Order Date :- 1.11.2023
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