



2024:UHC:10099-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT

Writ Petition (M/B) No. 591 of 2024

23rd December, 2024

Meenu

--Petitioner

Versus

The Union of India and others

--Respondents

Mr. Raj Kumar, learned counsel holding brief of Ms. Neetu Singh,
learned counsel for the petitioner

Mr. Rajesh Sharma, learned Standing Counsel for Union of
India/respondent No. 1.

Mr. K.N. Joshi, learned Deputy Advocate General assisted by Mr.
Naveen Tewari, learned Brief Holder for the State of
Uttarakhand/respondent nos. 2 to 6.

The Court made the following:

JUDGMENT: (per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

1. Petitioner is a resident of village Sikhroda, Tehsil Bhagwanpur, District Haridwar. In the last election, respondent No. 7 was elected as Pradhan of Gaon Sabha Sikhroda while petitioner lost the said election.

2. According to the petitioner, office of Pradhan, Gaon Sabha Sikhroda, was reserved for a candidate belonging to Scheduled Castes community; however, respondent No. 7 was not only permitted to contest the election, but was also declared successful in said election, even though she does not belong to Scheduled Castes community.

3. Petitioner made a representation, challenging the caste certificate issued in favour of respondent No. 7,



to the Competent Authority and thereafter she filed Writ Petition (M/S) No. 2502 of 2024. Said writ petition was disposed of with the direction to the Competent Authority to take decision on the representation made by petitioner. Pursuant to the order passed by coordinate Bench of this Court on petitioner's earlier writ petition, Scrutiny Committee, Haridwar, considered the objection as raised by petitioner against scheduled caste status given to respondent No. 7, and held that there is no substance in the objection raised by petitioner and respondent No. 7 has rightly been declared to be a member of scheduled caste.

4. Petitioner thereafter approached the Caste Scrutiny Committee, Uttarakhand. The State Caste Scrutiny Committee affirmed the order passed by District Level Committee and held that 'Lohar' caste, to which respondent No. 7 belongs, is a sub-caste of 'Shilpkar', therefore, challenge to the caste status of respondent No. 7, made by petitioner is without any basis. It was further held that husband of respondent No. 7 belongs to 'Chamar' sub-caste, which is also recognized as Scheduled Caste.

5. In this writ petition, petitioner is not only challenging the decision taken by District Level Committee and State Level Caste Scrutiny Committee, but she has also challenged the notifications, issued by Government of Uttarakhand dated 16.12.2013 and 30.01.2014. For ready reference, the reliefs sought by petitioner are extracted below:

- "i) Issue a suitable writ, order or direction in the nature of certiorari quashing the impugned report /finding of



2024:UHC:10099-DB

the Caste Scrutiny Committee dated 08-10-2024 (contained as Annexure no. 1 to the writ petition) or mould the relief appropriately keeping in mind the fact and circumstances narrated in the body of the writ petition;

- ii) Issue a suitable writ, order or direction in the nature of mandamus commanding and directing the respondent authorities /competent authority to cancel /reject the caste certificate of respondent no.7 forthwith based on report/finding on appeal dated 04.10.2023 (contained as Annexure no. 2 to the writ petition) of the Sub-Divisional Magistrate, Bhagwanpur forwarded to the District Magistrate, Haridwar whereby maintaining sub-castes certificates as Scheduled Caste issued to the respondent No.7;
- iii) Issue a writ of Certiorari or any other appropriate writ, order or direction by quashing and setting aside the Notification No. 3730/XVII-1/2013-13 (45)/2013, Dehradun dated 16.12.2013 (contained as Annexure no. 11 to the writ petition) as well as amended notifications dated 30.01.2014 (contained as Annexure no. 12 to the writ petition) and 21.02.2024 (contained as Annexure no. 13 to the writ petition) respectively issued by Social Welfare Department-01, Government of Uttarakhand;
- iv) Issue a writ of Mandamus or any other appropriate writ, order or direction by directing the principal Secretary to issue necessary direction to all the District Magistrates of the State of Uttarakhand not to issue any scheduled caste certificate to 48 sub-castes of 'Shilpkar' during the pendency of the writ petition and also to cancel forthwith all the caste certificates issued in pursuance to said notifications dated 16.12.2013.

6. Learned counsel for the petitioner submits that respondent No. 7 belongs to District Uttarkashi and she was wrongly issued a permanent resident certificate in District Haridwar, which was directed to be cancelled by District Level Caste Scrutiny Committee, therefore, the caste certificate, possessed by respondent No. 7, also deserves to be cancelled.

7. Perusal of the record, however, reveals that parental home of respondent No. 7, is in Tehsil Barkot,



District Uttarkashi and she was married to one Shri Bhopal, who is a resident of Block Bhagwanpur, District Haridwar. Even if permanent resident certificate issued to respondent No. 7 is cancelled, as recommended by District Level Caste Scrutiny Committee, then also her caste status does not come under cloud. The District Level as well as State Level Caste Scrutiny Committee have recorded concurrent findings that respondent No. 7 belongs to scheduled caste since birth; therefore, cancellation of resident certificate will have no effect on her caste status. Thus, challenge thrown by petitioner to the decision taken by Caste Scrutiny Committees is without any force.

8. Petitioner has also challenged Government Order dated 02.04.2013, issued by Principal Secretary, Social Welfare Department, which is annexed as Annexure-7 to the writ petition. By the said Government Order, guidelines were issued for issuance of caste certificates to persons belonging to SC, ST & OBC. However, there is no good ground to challenge the said government order.

9. The petitioner has also challenged Government Order dated 16.12.2013, which provides that 'Shilpkar, mentioned in Item No. 62 of the Presidential Order, issued in exercise of powers under Article 341 of the Constitution of India, is not a caste in itself but is a group of a number of castes and to remove the difficulty faced by District Level Authority while issuing caste certificates, the sub-castes which are included in 'Shilpkar' caste, were enumerated in Government Order dated 16.12.2013.



10. Hon'ble Supreme Court, in the case of Navneet Kaur Harbhajansing Kundles alias Navneet Kaur Ravi Rana Vs. State of Maharashtra and Others, reported in 2024 SCC OnLine SC 494, held that Scrutiny Committee is not an adjudicating authority like a court or tribunal, but is an administrative body which verifies the facts, investigates into a specific caste claim and ascertains whether a caste claim is correct or not. Para 18 and 19 of the said judgment are extracted below:

“18. As per the ratio of larger Bench judgment of this Court in '*Dayaram v. Sudhir Batham*, (2012) 1 SCC 333', it reveals that the Court while answering the question as to whether the Civil Courts' jurisdiction was rightly barred by judgment in *Kumari Madhuri Patil* (supra), observed that a Scrutiny Committee is not an adjudicating authority like a Court or Tribunal, rather it is an administrative body which verifies the fact, investigates into a specific caste claim and ascertains whether the caste claim is correct or not. It was further observed that permitting civil suits to challenge such proceedings with the provisions of appeal and further appeals would defeat the purpose of the scheme. However, such decisions were rightly made available to challenge in proceedings under Article 226 of the Constitution of India 'which may be within the parameters for invoking the writ jurisdiction by High Court' in the judgment of *Kumari Madhuri Patil* (supra). Though at the same time, the said observation does not explicitly give a wide power in a writ of certiorari which is not within the purview of issuance of such writ merely because of decision of Scrutiny Committee is under challenge.

19. In sum and substance, the writ of certiorari is expended as a remedy and is intended to cure jurisdictional error, if any, committed by the Courts/forums below. It should not be used by superior Court to substitute its own views by getting into fact-finding exercise unless warranted. [See *Central Council for Research in Ayurvedic Sciences v. Bikartan Das*, 2023 SCC OnLine SC 996 - Para 51 and 52; *Syed Yakoob v. K.S. Radhakrishnan*, AIR 1964 SC 477 - Para 7]. At this juncture, it would also be profitable to refer relevant extract from judgment delivered by this Court in '*Indian Overseas Bank*' (supra), wherein para 17, it was observed as thus -

“17. The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in



2024:UHC:10099-DB

the opinion of the writ Court to warrant those findings at any rate, as long as they are based upon such materials which are relevant for the purpose or even on the ground that there is yet another view which can be reasonably and possibly undertaken.....”

Such being the situation, in the instant case, the High Court went into a probe regarding credibility of the opinion of the Scrutiny Committee because the writ Court felt the need to substitute it's own views. In case if the findings of the Scrutiny Committee are based on the materials specified under Rule 16 followed by its subjective satisfaction, then exercise of jurisdiction under writ of certiorari to quash the order of validation of caste claim by Scrutiny Committee is unwarranted and uncalled for.”

11. That being the legal position, there is hardly any scope for interference with a finding of fact recorded by District and State Level Committees. Challenge to the orders/notifications issued by the State Government is also without any substance.

12. In such view of the matter, the Writ Petition is liable to be dismissed and is dismissed. No order as to costs.

MANOJ KUMAR TIWARI, A.C.J.

PANKAJ PUROHIT, J.

Dt: 23RD December, 2024
Mahinder

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Digitally signed by MAHINDER SINGH
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