IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7122 of 2016

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Vijay Nath Sah son of Late Raghunath Sah, resident of Diwan Mohalla, Ram Janki Chowraha, P.O. Jhauganj, P.S. Khajekala, District Patna 800008, at present posted on the post of Inspector of Income tax , TDS Circle O/o the Assistant Commissioner of Income Tax (TDS), Central Revenue Building (Annexe), Birchand Patel Path, Patna 1

.... Petitioner

Versus

1. The Union of India through the Special Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, North Block, New Delhi – 110011
2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi 110011
3. The Pr. Chief Commissioner of Income Tax (CCA) Patna, [Bihar & Jharkhand Region], Central Revenue Building, Bir Chand Patel Path, Patna 800001
4. The Commissioner of Income Tax (TDS), 5th Floor, Central Revenue Building, Bir Chand Patel Path, Patna 800001
5. The Assistant Commissioner of Income Tax, (Hqrs), (Admn), Central Revenue Building, Bir Chand Patel Path, Patna 800001
6. The Income Tax Officer (Hqrs), O/o the Commissioner of Income Tax (TDS), Central Revenue Building (Annexe), Bir Chand Patel Path, Patna 800001

.... Respondents

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Appearance :

For the Petitioner : Mr. Pradip Kumar, Advocate
For the U.O.I. : Mr. S.D Sanjay, Addl. S.G.
Mr. Arvind Kr. Tewary, C.G.C.
For Respondents 4 to 6 : Mrs. Archana Sinha, Sr. Standing Counsel, I.T.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 28-07-2016

Heard learned counsel for the parties.

2. The order dated 4th of February, 2016 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short "the Tribunal") in O.A. No.050/00718 of 2014 is subject matter of challenge in the present writ application.

3. The petitioner has sought quashing of the charge sheet dated 19th of September, 2014 issued to the petitioner for the reason that he has submitted false declaration of caste declaring himself as belonging to Scheduled Caste with caste name as 'Turi', whereas he belongs to 'Turha' caste, which is under Most Backward Caste category but not the Scheduled Caste.

4. The entire claim of the petitioner is based upon an order passed by the Hon'ble Supreme Court in the case of Kumari Madhuri Patil vs. Additional Commissioner (1994) 6 SCC 241, wherein a Caste Certificate Scrutiny Committee was ordered to be constituted. It is contended that the Caste Certificate can be verified only by such authority and not in departmental proceedings. In Madhuri Patil's case, the basis of the constitution of the Committee is to ensure that the genuine candidates alone are granted the caste benefit. This direction in the very nature of things is to be applied in future before a candidate seeks admission or employment. The Court held as follows:-

"13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:---

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5. A perusal of the decision of the Bihar Government dated 5th of February, 2014 (Annexure 3/5) shows that such authority had been constituted to verify the Caste Certificate for the purpose of appointment or for the purpose of admission. Once the Caste Certificate produced by the petitioner was taken into consideration and he was appointed, the question whether it is a false certificate does not fall within the ambit of such authority, as such authority was constituted to provide an opportunity to the candidates a forum to verify the Caste Certificate. It does not apply to a candidate, who is

already in service and is facing departmental proceeding.

6. In view thereof, we do not find any ground to interfere with the order passed by the Tribunal.

7. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.08.2016
Transmission Date	