

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1352 of 2017

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1. The Union of India through the Chairman & Managing Director, National Thermal Power Corporation Ltd., Lodi Road, New Delhi.
 2. The G.M. cum Disciplinary Authority, National Thermal Power Corporation Ltd., Kahalgaon Super Thermal Power Project, Kahalgaon, Bhagalpur, District- Bhagalpur.

... .. Appellant/s

Versus

1. Ashok Kumar, Son of Late Sita Ram, Resident of Kumarpur Katahara, P.S.- Sultanganj, District- Bhagalpur.
2. The State of Bihar through the Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar.
3. The District Magistrate, Bhagalpur, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Anil Sinha, Advocate Mr. Abhimanyu Deo, Advocate
For the Respondent/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Pranav Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2017

Seeking exception to an order dated 30th of August, 2017 passed by the learned Writ Court in C.W.J.C. No. 14822 of 2008 this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner, Respondent No. 1 herein, was granted appointment in the appellant's establishment based on a Caste Certificate produced by him. However, the District Magistrate cancelled his Caste Certificate and consequently his services



were also terminated. The matter came to this Court in the writ petition filed by Respondent No. 1 and a Single Bench of this Court after taking note of the law laid down by the Supreme Court in the case of **Kumari Madhuri Patil and anr. Vs. Additional Commissioner, Tribal Development & others- (1994) 6 SCC 241** and a judgment of this Court in the case of **Farzana Sabaff Vs. The State of Bihar & Ors.- 2014 (3) BBCJ 631** found that the matter has been decided by the District Magistrate and the termination order ordered only on the basis of the report of the District Magistrate/Collector without referring the issue to the Caste Scrutiny Committee as laid down in the case of **Kumari Madhuri Patil** (supra).

Taking note of the law laid down in the case of **Kumari Madhuri Patil** (supra), the learned Writ Court found that the order passed by the District Magistrate is unsustainable, set it aside and gave liberty to the Corporation or the District Magistrate to approach the Caste Scrutiny Committee for consideration of the caste of Respondent No. 1 and its cancellation. In Paragraph 9 the direction issued by the learned Writ Court reads as under:-

“In the above view of the matter, it becomes apparent that the District Magistrate was not the competent authority to cancel the caste



certificate of the petitioner rather it was the Scrutiny Committee constituted by the State Government which was empowered to do so. In these circumstances, the order passed by the District Magistrate, Bhagalpur dated 01.03.2007 (Annexure-6) is hereby set aside. It shall be open to the respondent-Corporation or the District Magistrate to approach the Scrutiny Committee for consideration of the caste certificate of the petitioner and cancellation thereof. It may be noted here that such Scrutiny Committee has been constituted by the State Government as evident from perusal of paragraph 11 of the judgment of this Court reported in 2014 (3) BBCJ 631 (Farzana Sabaff vs. The State of Bihar & Ors.).”

The only grievance put forth before us today by the learned senior counsel appearing for the appellants is that once the matter was referred to the Caste Scrutiny Committee, the direction for reinstatement should not have been granted. Reinstatement should have been kept in abeyance till decision by the Caste Scrutiny Committee.

We find much force in the aforesaid contention of learned senior counsel appearing for the appellants. Once the matter was to be considered by the Caste Scrutiny Committee, it was not appropriate for the learned Writ Court to direct for reinstatement of the employee as the Caste Certificate issued to



the employee was under clout.

Taking note of the aforesaid aspect of the matter, we allow this appeal in part and modify the order passed by the learned Writ Court to the following extent:-

On the Respondent No. 1 filing a certified copy of this order and relevant documents before the State Level Caste Scrutiny Committee, the said committee shall take up the issue for consideration, hear the original petitioner i.e. respondent herein and decide the question of the caste or social status of the employee within a period of three months thereof and till the decision is not taken, the order passed for reinstatement shall be kept in abeyance. The question of reinstatement shall be dependent upon the final outcome of the report and the decision to be taken by the Caste Scrutiny Committee. In case the Caste Scrutiny Committee directs for issuance of the Caste Certificate, the respondent employee shall be reinstated forthwith with liberty to the appellants to challenge the report of the Caste Scrutiny Committee and in case the report of the Caste Scrutiny Committee is adverse to the respondent employee, reinstatement shall not be granted, instead liberty shall be available to the respondent employee to challenge the report of the Caste Scrutiny Committee and claim appropriate relief in accordance



with law.

With the aforesaid modification to the order passed, the Letters Patent Appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

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