

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No. 717 of 2017

1. Ramlal Nag S/o Late Sahdev, Aged About 37 Years Caste Halba, R/o Village Bade Tumnar, Janpad Panchayat, Geedam, Dantewada, District South Bastar Dantewada (Chhattisgarh).
2. Anantram Nagesh, S/o Late Ramdayal, Aged About 57 Years Caste Halba, R/o Village Bagapal, Janpad Panchayat, Geedam, Dantewada, South Bastar Dantewada (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, District Dantewada (Chhattisgarh).
3. The District Level Certificate Verification Committee, District Dantewada (Chhattisgarh).
4. The Sub Divisional Officer (Revenue), Dantewada, District Dantewada (Chhattisgarh).

---- Respondents

And

WPC No. 612 of 2017

Ashok Kumar son of Kirsuram, aged about 30 years, resident of Bade Tumnar, Block & Tahsil-Geedam, District South Bastar Dantewada (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, District Dantewada (Chhattisgarh).
3. The District Level Certificate Verification Committee, District Dantewada (Chhattisgarh).
4. The Sub Divisional Officer (Revenue), Dantewada, District Dantewada (Chhattisgarh).

---- Respondents

And

WPC No. 613 of 2017

Ramlal Degal son of Late Ganga Degal, aged about 37 years, resident of Chhote Tumnar, Block & Tahsil-Geedam, District South Bastar Dantewada (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, District Dantewada (Chhattisgarh).
3. The District Level Certificate Verification Committee, District Dantewada (Chhattisgarh).
4. The Sub Divisional Officer (Revenue), Dantewada, District Dantewada (Chhattisgarh).

---- Respondents

And

WPC No. 721 of 2017

1. Jayatiram Nag S/o Late Puran Singh Nag, Aged About 35 Years (Wrongly Mentioned As Jaikishore Nag In The Impugned Notice) R/o Village Bade Tumnar, Janpad Panchayat, Geedam Dantewada, District South Bastar Dantewada (Chhattisgarh).
2. Shivilal Nag S/o Late Ganguram, Aged About 35 Years R/o Village Bade Tumnar, Janpad Panchayat, Geedam, Dantewada, District South Bastar Dantewada (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Collector, District Dantewada (Chhattisgarh).
3. The District Level Certificate Verification Committee, District Dantewada (Chhattisgarh).
4. The Sub Divisional Officer (Revenue), Dantewada, District Dantewada (Chhattisgarh).

---- Respondents

For Petitioners	:	Mr.Goutam Khetrapal, Advocate
For Respondents	:	Mr.Shashank Thakur, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/7/2017

1. Since common question of law and facts are involved in these writ petitions, they are heard together and are being disposed of by this common order.

- 2.** The petitioners caste certificates were verified by the District Level Certificate Verification Committee constituted under the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (hereinafter called as 'Act of 2013') on 31.7.2013 and 20.3.2014 respectively and that order has attained finality as there was no challenge of that certificates. Thereafter, some complaints were made to the Collector, Dantewada against the petitioners. The Collector referred the matter to the Sub Divisional Officer (R.), Dantewada and the said Sub-Divisional Officer issued the notices to the petitioners for verification of their caste certificates on 20.2.2016 (Annexure P/1 in all cases), against which, these writ petitions under Article 226 of the Constitution of India have been filed by the petitioners.
- 3.** Learned counsel for the petitioners would submit that under the Act of 2013, only District Legal Certificates Verification Committee constituted under Section 6 of the Act of 2013 or High Power Certification Scrutiny Committee constituted under Section 7 of the Act of 2013 can verify the caste certificates issued in accordance with law and as such, notices issued by the Sub Divisional Officer (R.), Dantewada against the petitioners are without jurisdiction and without authority of law.
- 4.** On the other hand, learned State Counsel would oppose the writ petitions and submit that the Sub-Divisional Officer has

only conducted preliminary inquiry and if some adverse material is found against the petitioners, the Sub-Divisional Officer (R.) would submit the report to the Collector and same shall be forwarded to the State Government for referring it to the High Power Certification Scrutiny Committee in the light of provisions contained in Sections 6 and 7 (1) of the Act of 2013 read with Rule 19 of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013.

5. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

6. Section 7(1) of the Act of 2013 provides as under:-

“7. High Power Certification Scrutiny Committee.”-(1) The State Government shall constitute, by notification in the Official Gazette, one or more High Power Certification Scrutiny Committee or Committees, for conducting enquiry into Social Status Certificate(s) referred to it by District Level Certificates Verification Committee under Section 6 or by the State Government, and it shall be the duty of the High Power Certification Scrutiny Committee to examine the report of the District Legal Certificates Verification Committee and to proceed in this matter as prescribed under Chapter IV of this Act.”

7. A careful perusal of Section 7(1) of the Act of 2013 would show that the State Government shall constitute by notification in the official gazette one or more High Power Certification Scrutiny Committee or Committees for conducting enquiry into social status certificates referred to it

by District Level Certificates Verification Committee under Section 6 or by the State Government.

8. It is well settled law that ordinarily, no writ lies against a show-cause notice unless the same inter-alia appears to have been without jurisdiction as held in **State of Uttar Pradesh Vs. Brahm Datt Sharma and Anr.**¹, **Special Director and Another Vs. Mohd. Ghulam Ghouse and another**² and **Union of India and Another Vs. Kunisetty Satyanarayana**³.

9. The Supreme Court in the matter of **Madhuri Patil v. Commissioner, Tribal Development**⁴ formulated scheme for verification of tribal status and held that any application for verification of her tribal status as a scheduled tribe should be carried out by such committee and issued direction for issuance of social caste certificate, their scrutiny. The directions issued are as under:-

“13. ...(1) The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such Officer rather than at the officer, taluk or mandal level.

(4) All the State Governments shall constitute a Committee of three officers, namely, (i) an Additional or Joint Secretary or any officer higher in rank of the Director of the Department concerned, (ii) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (iii) in the case of Scheduled Castes another officer who has intimate knowledge in the

1 AIR 1987 SC 943

2 (2004) 3 SCC 440

3 2006 (12) Scale 262

4 (1994) 6 SCC 241

verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

(5) Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in overall charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The Vigilance Officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste, etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deities, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. by the castes or tribes or tribal communities concerned, etc.

(6) The Director concerned, on receipt of the report from the Vigilance Officer if he found the claim for social status to be 'not genuine' or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue a show-cause notice supplying a copy of the report of the Vigilance Officer to the candidate by a registered post with acknowledgment due or through the head of the educational institution concerned in which the candidate is studying or employed. ...

(9) The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. Quite recently following the principles laid down in **Madhuri Patil** (supra), in the matter of **Collector, Bilaspur v. Ajit P.K.Jogi and others**⁵, the Supreme Court has held that the verification of validity of the caste certificate and the determination of the caste status should therefore be done only by scrutiny committee constituted as per direction in **Madhuri Patil** (supra) or in terms of any statute made by appropriate Government in that behalf.

11. In the matter of **Sudhakar Vithal Kumbhare v. State of Maharashtra and others**⁶, Their Lordships of the Supreme Court have held that issue of caste status cannot be gone into in a departmental enquiry and this matter can be examined only by the Caste Scrutiny Committee constituted under the direction of the Supreme Court in the case of Kumari Madhuri Patil (supra).

12. In the light of principles of law laid-down by the Supreme Court in the aforesaid judgments (supra,) if the facts of the present case are examined, it is quite vivid that the High Power Certification Scrutiny Committee constituted under Act of 2013 can only conduct an enquiry into social states certificates/caste certificates referred to it by District Level Certificates Verification Committee or by the State Government. The Sub Divisional Officer (R.) has not been conferred any power to initiate preliminary enquiry into social states certificates/caste certificates issued in favour of the

5 (2011) 10 SCC 357

6 (2004) 9 SCC 481

petitioners.

13. In the considered opinion of this Court, notices issued by the Sub-Divisional Officer (R.), Dantewada against the petitioners on 20.2.2016 (Annexure P/1 in all cases) are without jurisdiction and without authority of law in the light of Sections 6 and 7(1) of the Act of 2013. Accordingly, it is quashed.

14. The writ petitions are allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-