

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 115 of 2017**

Nand Kumar Sai S/o Late Shri Likhan Sai aged about 71 years Agriculturist and Chairman The National Commission for Scheduled Tribes constituted under Article 338A of the Constitution Resident of Bungalow No.1 Officer's Colony Devendra Nagar Jail Road Raipur Chhattisgarh

---- Appellant**Versus**

1. The High Power Certification Scrutiny Committee Chhattisgarh Behind Pt. Ravishankar University Raipur Chhattisgarh
2. The Secretary Tribal Welfare Department of the State of Chhattisgarh Mantralaya New Raipur Chhattisgarh
3. Shri Ajit Pramod Kumar Jogi S/o Late K.P. Jogi Politician and Ex-Chief Minister Chhattisgarh aged about 70 years R/P/ Anugrah Sagon Bungalow Civil Lines Raipur Chhattisgarh

---- Respondents

For Appellant	: Shri U.N. Awasthi, Senior Advocate with Ms. Raksha Awasthi, Advocate.
For Respondent/State	: Shri B.Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri P. Sam Koshy, Judge.****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****03/04/2017**

1. We have heard Learned Senior Counsel and the Learned Deputy Advocate General.
2. The Appellant/writ Petitioner is an Ex-member of Parliament (Rajya Sabha). His complaint is that the proceedings are not being concluded by the High Power Certification Scrutiny Committee (hereinafter referred to as 'the High Power Committee') against the 4th Respondent in the writ petition, who is former Chief Minister of the State of Chhattisgarh.
3. Learned Counsel for the Appellant relies upon the judgment of the Hon'ble Supreme Court in *Kumari Madhuri Patil and Another Vs. Addl. Commissioner,*

Tribal Development and Others, (1994) 6 SCC 241 and points out that the matter pending before the High Power Committee in relation to the 4th Respondent is not being taken up and decided within the time frame prescribed by the Hon'ble Supreme Court in that regard. It is argued that the said judgment categorically says that High Power Committee had to be constituted and they had to take a final decision within a period of two months and if that is challenged, the High Court shall also render a decision within a period of three months. Technically put, if there is any violation to the direction of the Apex Court, it is a matter which could be entertained by that Court by instituting an application for consideration. Nonetheless the Appellant/writ Petitioner has instituted the writ petition. The Learned Single Judge after considering the fact and factors and recording of the submission of the Learned Advocate General that the High Power Committee would decide the matter finally by 31.5.2017. Recording that submission, the Learned Single Judge has directed that the case before the High Power Committee with respect to the social status of 4th Respondent in the writ petition should be decided by 31.5.2017. The said decision has been rendered by the Learned Single Judge after adverting to and considering the facts and factors of the case and also after noticing the decision of the Hon'ble Supreme Court.

4. Under such circumstances, we are of the view that on the totality of the facts and factors of the case, it may be impermissible for us to visit the said judgment through this intra Court appeal. The discretion having been justiciable exercise in the manner in which it has been done.

5. For the aforesaid reasons, the writ appeal fails and the same is dismissed underlining the need to abide by the Learned Single Judge in terms of the directions rendered by him.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE