IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6615 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/s

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. The Sub-Divisional Officer, Patna City, Patna.
3. The Circle Officer, Patna Sadar, Patna.
4. The Chairman, Central Board of Direct Taxes, North Block, New Delhi 110011.
5. The Pr. Chief Commissioner of Income Tax (CCA), Patna, Bihar & Jharkhand Region, Central Revenue Building, Bir Chand Patel Path, Patna 800001.
6. The Commissioner of Income Tax (TDS), 5th Floor, Central Revenue Building (Annexe), Bir Chand Patel Path, Patna 800001.
7. The DDIT (I & CI) now the JCIT, Central Circle 2, Central Revenue Building (Annexe), Bir Chand Patel Path, Patna 800001.
8. The Income Tax Officer, Ward 5(3), now the CIT - 2, Hqrs, Central Revenue Building, Bir Chand Patel Path, Patna 1.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Niranjan Kumar
Ms. Asmita Prasad

For the Respondent/s : Mr. Gyan Shankar, A.C. to G.P.-2.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 20-12-2018

Heard learned counsel for the petitioner and counsel appearing on behalf of the State.

The petitioner is challenging the impugned letter No.2505 dated 26.03.2016 passed by Circle Officer, Sadar, Patna whereby and whereunder he has found that the petitioner does not belong to Turi caste but he is a member of Turha caste and accordingly certificate granted by the office of Circle Officer, Sadar, Patna has been cancelled. The petitioner has also challenging the Memo No.1860 dated 01.04.2016 passed by District Magistrate, Patna whereby also the caste certificate granted to the petitioner belong to Turi caste has been also cancelled.

The petitioner was appointed as income tax inspector claiming to be member of Turi caste which is one of the Scheduled Caste notified in the presidential order. A complain was received after a long period of 20 years that the petitioner has obtained the employment fraudulently claiming to be member of Turi caste but in reality he is a member of Turha caste and the caste Turha does not fall in the category of Scheduled Caste as the same belongs to the backward class. So he has played fraud and obtained the employment by illegal manner, set in motion the proceeding by District Magistrate office for proper enquiry and in turn the matter came to the Circle Officer, Sadar Patna who was assigned the duty of enquiry upon the Circle inspector who submitted the report in turn the petitioner was called upon to satisfy the circle officer that he belongs to the member of Turha caste instead the father of the petitioner appeared but he could not produce any clinching and impeachabe document to reflect that he is member of Scheduled Castes and Circle Officer has given report that he is not the member of Scheduled Caste and cancelled the caste certificate which has been issued vide memo No.3769 dated. 19.08.1989. The matter came before the District Magistrate who also considered and cancelled the certificate of caste issued in favour of the petitioner.

Learned counsel for the petitioner submits that after the judgment of Kumari Madhuri Patil passed in Civil Apepal No.5854 of 1994 in the matter of allegation of tampering of caste certificate or a false certificate has been produced, a Committee has been constituted by the State Government vide his Memorandum dated 09.11.2007 which has been notified in the official Gazette and as per the Gazette, two types of Committees are functioning. Formal Samiti and another Vigilance Samiti defined the nature of work to be conducted by both the Samittees in their respective areas.

The counsel of the State has submitted that the petitioner has obtained the certificate by committing fraud when it came to light, the State has come out to rectify the mistakes of granting the wrong certificate issued on the basis of wrong materials supplied by the petitioner.

Having considered all the respective parties and in view of the Kumari Madhuri Patil case (Supra), the Supreme Court specifically held that the State Government to constitute a

Committee which will examine and verify the caste about the status of the of a person with respect to grant of benefit of reservation. As the Government has already constituted a Committee, it will be prudent and proper that the matter verification of his caste certificate be done by that Committee after holding proper enquiry or investigation into the matter and decide the issue of the caste of the petitioner. This Court is not giving any opinion on the merit of the case of the petitioner.

In view of the aforesaid discussion, this writ petitioner is disposed of. The order passed by the Circle Officer and District Magistrate are quashed. The matter is remanded back to State to refer the matter of verification of status of his caste to the Committee. The petitioner will get any benefit subject to outcome of the decision of the Committee.

Entire exercise be completed by the Committee within the period of four months from the date of receipt / production of a copy of this order.

(Shivaji Pandey, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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