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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 279 of 2019**

{Arising out of Order dated 02.05.2019 passed in Writ Petition (C) No. 1573 of 2019 by the learned Single Judge}

Ajit Pramod Kumar Jogi S/o Late Shri K.P.Jogi, Aged about 67 years, R/o Anugrah, Sagaun Bunglow, Civil Lines, Raipur, Chhattisgarh.

---- Appellant

Versus

1. The Committee: High Power Certification Scrutiny Committee (Through its Member Secretary) Pandit Deen Dayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, Chhattisgarh.
2. State of Chhattisgarh, Through its Chief Secretary, Mahanadi Bhawan, Naya Raipur, Chhattisgarh, District Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Kishore Bhaduri, Shri Sunny Agrawal and Shri Amit Jogi, Advocates.
For Respondents/State:	Smt. Fouzia Mirza, Additional Advocate General.
For Intervenor	: Shri Sandeep Dubey, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****03/07/2019**

1. Declaration of the caste status of the Appellant is the basic issue involved in this appeal. The imminent cause of action is the interference declined by the learned Single Judge in respect of the challenge raised against the show cause notice (Annexure P/1) issued by the High Power Certification Scrutiny Committee (for short '*the Scrutiny Committee*'). The main ground of

challenge is that there is no incriminating circumstance in the report submitted by the Vigilance Cell so as to have persuaded the Scrutiny Committee to issue notice to the Appellant/Petitioner, more so, in FORM-6B of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013 (for short '*the 2013 Rules*'), where the insinuation is more with reference to the 'fraudulent act' in obtaining the caste certificate.

2. Heard Shri Kishore Bhaduri, the learned counsel for the Appellant and Ms. Fouzia Mirza, the Additional Advocate General, at length.
3. The learned counsel for the Appellant/Petitioner has taken strenuous efforts to see that no stone is left unturned with regard to the issue. So has been done by the learned Additional Advocate General as well, insofar as her role is involved, to have an effective adjudication of the matter at the hands of this Court.
4. The case has got a chequered history and it starts from the doubt expressed with regard to the caste status of the Appellant more than 1½ decades ago. The sequence of events reveals that the Appellant was issued social status certificates (caste certificate) by different authorities at different points of time, right from 1967. By virtue of the said caste status, the Appellant/Petitioner was given the benefit of the particular caste 'KANWAR'- a Scheduled Tribe in the State. It is stated by the learned counsel for the Appellant that, *de hors* the certified caste status as above, the Appellant was successful in proving his merit in the All India Civil Services Examination and had come out in flying colours, bagging an entry into the 'IAS' and was serving the nation as above. He had also qualified for the Indian Police Service, earlier. Later on, he quit the service and chose to contest in a different field and was virtually elected as a representative of the people from different constituencies to both the Lok Sabha and also the

Rajya Sabha for different tenure. He was also elected to the Legislative Assembly of the State and was the first Chief Minister, when the State was formed in November, 2000.

5. The grievance of the Appellant is with regard to the course/conduct being pursued by the Respondent/State-authorities, trying to corner him absolutely for no tenable ground, but with mere reference to the caste status and this made him to have the proceedings initiated in this regard to be challenged. The matter went up to the Apex Court in connection with the complaint preferred by some Intervenor before the National Commission for Scheduled Castes and Scheduled Tribes, as to the genuineness of the caste certificate obtained by the Appellant. In fact, the National Commission, upon receipt of the complaint, had proceeded to conduct an enquiry of its own and giving various directions to the State and the matter was being pursued accordingly. On taking up the matter before the Supreme Court, challenging the authority of the National Commission to enter into the field and the course of action being pursued by the State, the case was subjected to detailed analysis and final verdict was passed by the Supreme Court, as reported in ***Collector, Bilaspur v. Ajit P.K. Jogi & Others***; (2011) 10 SCC 357. As discernible from 'paragraph 11' of the said verdict, 'four' different questions were raised by the Apex Court which are reproduced below for easy reference:

"11. Feeling aggrieved by the said judgment, the State of Chhattisgarh has filed CA No.4082 of 2008, the Collector, Bilaspur has filed CA No.4069 of 2008, the sixth respondent filed CA No. 4079 of 2008 and four interveners in the High Court filed CA No. 4074 of 2008. On the contentions raised, the following questions arise for our consideration :

- (i) Whether the Commission had the jurisdiction to entertain complaints about the genuineness of caste certificate of a particular individual and pronounce upon the validity of the caste certificate and the caste status of such person?

(ii) Whether the High Court was justified in holding that in view of two earlier decisions of the High Court in WP No.1417 of 1988 decided on 24.7.1989 and WP No.1039 of 2001 decided on 24.7.2001, challenging the caste status of the first respondent, his caste status had attained some kind of finality?

(iii) Whether there was any violation of principles of natural justice on the part of the Commission as held by the High Court?

(iv) Whether the High Court was justified in holding that the proceedings before the Commission at the instance of sixth respondent were politically motivated?"

6. After hair-splitting analysis with reference to the various provisions of the Constitution of India and the relevant statutes, the Apex Court answered the 'first question', that the order passed by the National Commission was not liable to be sustained and hence, the High Court of Chhattisgarh was right in setting aside the said order dated 16.10.2001. The remaining questions, *i.e.* question No. (ii) to (iv) were dealt with together and the following conclusion was reached by the Apex Court as disclosed from paragraph 28, which is also reproduced below for easy reference:

"28. We therefore allow these appeals in part as under :

(i) The order of the High Court dated 15.12.2006 to the extent it quashes the order dated 16.10.2001 of the Commission, is upheld.

(ii) The adverse observations by the High Court about the complaint by the sixth respondent, the inquiry by the Commission, and the stand of the State Government and the Collector before the High Court, being politically motivated, are set aside.

(iii) The direction to the State Government and the Commission to calculate the actual cost incurred in prosecuting the writ petition and directing the sixth respondent to pay the actual costs plus Rs.10,000 is set aside.

(iv) In terms of the direction of the Commission, the State Government through a duly constituted Scrutiny Committee shall now undertake the verification/scrutiny of the social status (tribal) certificates issued to the first respondent showing him as belonging to

'Kanwar' Scheduled Tribe and decide the matter after giving due opportunity to the first respondent, uninfluenced by any observations by the Commission, High Court or this Court. The State Government/concerned authorities shall be entitled to take consequential action on the basis of the order/report of the Scrutiny Committee."

As obvious from the above conclusion, the caste status of the Appellant was held to be in cloud and hence, it was sought to be pursued further so as to have transparency and clarity in all respects; in turn giving direction to the State to cause the matter to be inquired by a proper committee i.e. the Scrutiny Committee in the manner as mentioned therein.

7. After passing the said verdict, the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (for short '*the 2013 Act*') came to be legislated by the State, simultaneously framing the Rules and the matter was sought to be proceeded further in terms of the said Rules. A Committee was constituted and the same was notified in the gazette on 29.06.2013. Things took a different turn, when the Government reconstituted the said Committee with reference to an order dated '17.03.2017', which was sought to be challenged by the Appellant before this Court, stating that the course sought to be pursued by the State was vindictive and that, instead of constituting a proper Committee as envisaged under the statute, the State thought it better to confer all the powers upon a particular person so as to bag the desired result and to fix the Appellant. The version put forth by the Appellant was sought to be rebutted by the State referring to the pleadings raised by them. The matter was considered elaborately by a Division Bench of this Court and as per the judgment reported in ***Ajit Pramod Kumar Jogi v. High Power Certification Scrutiny Committee & Another***; (2018) SCC OnLine Chh 114, it was held that the 'so called order dated 17.03.2017' was not a statutory notification at all and that the same was never notified in any gazette. It was also observed that the said order/notification could not have

any overriding effect, over the gazette notification already published on 30.08.2013 constituting a proper Committee in terms of Section 7(1) of the 2013 Act. It was in the said circumstance, that the Bench held that a proper Committee was to be constituted in terms of the '2013 Act', instead of conferring the power upon one person. Accordingly, the challenge raised by the Appellant against the constitution of the Committee was upheld and the matter was disposed off giving appropriate directions, crux of which as contained in the operative portion ('Paragraph 20') is reproduced below for convenience of reference:

"20. For the aforesaid reasons, this writ petition is allowed quashing the impugned Annexure P/1 order and directing that proceedings shall be carried from the stage at which it had reached before nomination of the officers of the Committee as per "order" dated 17.03.2017. It is further declared that the said "order" dated 17.03.2017 does not supersede Annexure R-64 Notification issued on 22.08.2013 and would continue to hold good unless modified in accordance with law. Following the directions issued by the Hon'ble Supreme Court in *Collector, Bilaspur (supra)*, it is further ordered that the State Government shall give effect to the directions contained in paragraph 28(iv) of that judgment in conformity with the provisions of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 and the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013. It is clarified that no proceedings prior to 17.03.2017 is interfered with through this judgment and further proceedings may go on from that stage, with liberty to the Petitioner or any person aggrieved to contest such prior proceedings as and when the proceedings by the duly constituted statutory Scrutiny Committee concludes."

8. The Bench observed that the matter could be proceeded further by the duly constituted Committee, from the stage as it existed just before the order passed on 17.03.2017, in terms of the judgment passed by the Hon'ble Supreme Court reported in ***Collector, Bilaspur*** (supra) and also giving effect to the relevant provisions of the 2013 Act and the 2013 Rules. It was however made clear that no proceeding prior to 17.03.2017 was interfered

by the Bench through the said judgment and that the proceedings may go on from that stage, with liberty to the writ petitioner or any person aggrieved, to contest such 'prior proceedings' as and when the proceedings by the duly constituted statutory Scrutiny Committee got concluded.

9. Pursuant to the aforesaid direction, the State Government reconstituted the Committee strictly in accordance with the law and thereafter, a notice was issued to the Appellant on 04.02.2019 (Annexure P/11). The Committee also issued a notice asking the Appellant to show cause, vide Annexure P/1 dated 23.03.2019, as to the aspects pointed out therein, invoking the power and procedure under Rule 22 of the 2013 Rules. This was sought to be challenged by the Appellant in the writ petition, raising many a ground including that the notice issued by the Committee was *per se* wrong and illegal and further that the basic requirements for invoking the power and procedure under Rule 22 were never satisfied and hence it required to be interdicted.
10. Issuance of the notice was sought to be justified from the part of the State, referring to the sequence of events and the relevant provisions of law; besides citing the binding precedents sought to be relied on.
11. After hearing the rival contentions, the learned Single Judge observed that the matter required to be pursued by the Committee constituted in this regard and that no interference was warranted at the notice stage. It was also made clear that no bias at the stage could be inferred and that all the relevant aspects could be brought to the notice of the Committee for consideration. It was accordingly, that interference was declined and the writ petition was dismissed, which made the writ petitioner to move this Court by way of the present appeal.
12. The primary contention of the learned counsel for the Appellant is that the scheme of the statute envisages a specific procedure with regard to the

scrutiny of caste status. The matter was gone into by the Vigilance Cell and Annexure P/7 report has been submitted. The said report dated 29.11.2014 stands in favour of the Appellant, as put forth by the learned counsel. There is absolutely no insinuation in the said report with regard to the caste status and there is no observation that the certificate concerned was obtained by the Appellant by way of playing any fraud; by virtue of which the proceedings initiated and being pursued by issuing a notice in FORM-6B, as per the 2013 Rules, referring to obtaining the certificate by 'fraudulent means', are not correct or sustainable. This being the position, the entire proceedings are liable to be set aside, submits the learned counsel.

13. It is further stated that the Scrutiny Committee, if at all was having any doubt with regard to the caste status of the Appellant, based on the vigilance report, the same should have been recorded and let known; which however is not there in the notice issued. The stage for issuance of notice, invoking the power and procedure under Rule 22 of the 2013 Rules, is still to happen and as such, there cannot be any legal backing for sustaining the said notice or proceedings. This was omitted to be considered properly by the learned Single Judge, and hence the grievance.
14. The learned Additional Advocate General submits that the idea and understanding of the Petitioner is thoroughly wrong and misconceived. It is stated that, no where in Annexure P/7, has it been said anything in favour of the Appellant and there is no concrete finding. The data collected from different sources/persons have been discussed in detail, giving a clear picture as to the facts and figures and serious doubts have been expressed in the said report. The matter was considered by the Scrutiny Committee and it was since the Scrutiny Committee was not satisfied with the caste status, for want of clear finding, that further course of action was pursued in terms of the power under Rule 22 of the 2013 Rules, which does not stand confined to an instance involving 'fraud' alone. The process of verification or

the further course of action with regard to the caste status is discernible from Rule 15 (where verification of the certificate is mentioned) and this provision clearly envisages such a scrutiny and further proceedings, where a caste certificate has been obtained 'wrongly' or 'fraudulently'. It is further pointed out that in the instant case, notice was issued in 'FORM-6B' only for the reason that issuance of such a notice is warranted under the relevant Rules *i.e.* Rule 22(1) of the 2013 Rules. Since it is a printed form, the Respondent concerned was having absolutely no discretion, option or choice to deviate from or to strike-off any words in the printed form; which otherwise would have been another ground for litigation contending that there has been no adherence to the Rules in strict terms. It was accordingly that the notice was issued in the 'prescribed form' and opportunity was given to the Appellant to prove his credentials with regard to his caste status. It is also stated that the burden lies very heavy upon the shoulders of the Appellant to prove the caste status, by virtue of the finding and declaration given by the Apex Court in ***Ku. Madhuri Patil v. Additional Commissioner***, (1994) 6 SCC 241. Specific reference is made to paragraph 12 of the said verdict, besides asserting that the Vigilance report is not final and it has to be considered by the Scrutiny Committee, as mentioned in paragraph 13 of the very same judgment. If the version of the Appellant is to be accepted, to the effect that the Vigilance Report is the final word, then there need not be or cannot be any further exercise to be pursued by the Scrutiny Committee, which hence is not correct. It is for the competent authority *i.e.* the Scrutiny Committee to consider the materials and satisfaction has to be with regard to various aspects, including whether the certificate was wrongly issued, the certificate was fraudulently obtained and on such other considerations as well. It is with this intent, that the matter has been decided to be taken up with an open approach, giving an opportunity to the Appellant to prove the relevant aspects. Despite issuance

of notice on various dates, such as 23.03.2019, 26.04.2019, 09.05.2019, 31.05.2019, 14.06.2010 and 25.06.2019, the Appellant had not appeared except on the last date of posting, nor has produced the relevant documents. It is stated that the Appellant has submitted some reply as borne by Annexure P/12 on 22.02.2019 and on 04.04.2019 (Annexure P/13) referring to the rights and liberties of the Appellant; but the supporting documents in proof of his caste status are yet to be produced . The learned Additional Advocate General also submits that there is no basis for the apprehension nurtured by the Appellant that proceedings would be finalised in a 'tailor made' fashion and it is always open to him to have all the relevant aspects to be brought to the notice of the Scrutiny Committee; adding that a finding will be rendered on the basis of the entire materials brought on record, following a clear and transparent process in all respects.

15. Coming to the nature and scope of challenge raised by the Appellant against the show cause notice, normally, no interference is possible at this stage as opportunity is given to the party to show the cause as to why the proceedings shall not be pursued as mentioned therein. It is open for the party concerned to appear before the authority and place all the relevant materials along with the reply and it will be for the said authority to arrive at a conclusion based on such materials; which could be challenged if aggrieved, before the competent forum/court in accordance with law. Interference may be possible even at notice stage, under exceptional circumstances; if the notice is issued with a pre-conceived mind arriving at the conclusion or if any *mala fide* action is established in this regard. Both the said circumstances are lacking in the instant case and hence, no interference is warranted, submits the learned Additional Advocate General.
16. The fact remains that by virtue of the verdict passed by the Apex Court in (2011) 10 SCC 357 (cited supra) and the directions given in paragraph 28(vi) therein, the caste status of the Appellant requires to be inquired into

and this has to be done by the Scrutiny Committee and no other Committee at all. Now coming to the scheme of the statute, which took its breath for the first time only after passing of the said judgment by the Supreme Court, it provides for issuance of a caste certificate on an application, after necessary verification. Verification of the caste status can be pursued, if at all any doubt is expressed by an employer or any such authority as well. The Act provides for various steps/procedures to be taken, conferring the ultimate power upon the Scrutiny Committee to declare the caste status. It would be worthwhile to have a reference to Rule 14 of the 2013 Rules, as to the constitution of District Level Committee for verification of the certificates issued by the competent authorities.

"14. Constitution of District Level Certificates Verification Committee. - (1) The State Government shall constitute District Level Certificates Verification Committee having jurisdiction over one or more districts, for the verification of certificates issued by the Competent Authority, as under:-

- (a) Additional Collector or Deputy - Chairman
Collector posted at District
Headquarters, nominated by
Collector;
- (b) One Officer not below the rank of - Member
Class II, belonging to Scheduled
Tribe, nominated by Collector;
- (c) One officer not below the rank of - Member
Class II, belonging to Scheduled
Caste, nominated by Collector;
- (d) One officer not below the rank of - Member
Class II, belonging to Other
Backward Class, nominated by
Collector;
- (e) A subject expert officer or Class - Member
III executive employee,
nominated by Director, Tribal
Research and Training Institute;
- (f) Assistant Commissioner, - Member
Scheduled Tribe and Scheduled
Caste Development Department.

(2) In case on the post of Subject Expert or Class III executive employee, an appropriate officer or employee is not available for the Verification Committee then the Director, Tribal Research and Training Centre Institute, Raipur may appoint any retired officer or a Class III executive employee as member.

(3) For the nominated retired Subject Expert Officer or Class III executive employee in the Verification Committee, honorarium shall be determined by the State Government.

(4) Meeting of the Verification Committee, as required shall be held on a fixed day, every week:

But the meeting of the Committee may also be convened on the direction of the Chairman on a short notice of one day. "

17. The process of verification of the certificate and reference to the Verification Committee are dealt with under Rule 15 of the 2013 Rules, sub-rule (1) of which is relevant to some extent and hence, the same is reproduced below:

"15. Verification of Certificate and reference to Verification Committee. - (1) If the concerned public employer, educational institution or a statutory body, the State Government or the Central Government, as the case may be, receives a complaint or raises a doubt that the person appointed, admitted, elected, named or nominated has obtained Certificate wrongly or fraudulently then he/it shall ask such person to file an affidavit in FORM-2B and shall refer the matter to the Verification Committee in FORM-1B."

The procedure where the Verification Committee is not satisfied with the documentary evidence, is stipulated under Rule 18 of the 2013 Rules. The further proceeding with regard to the enquiry, cancellation and forfeiture of the certificate is dealt with under Chapter IV of the said Rules, wherein constitution of the High Power Scrutiny Committee is mentioned under Rule 19. Rule 20 of the 2013 Rules deals with the inquiry of the case through the 'Vigilance Cell'. It will be appropriate to have the said Rules also extracted herein to have easy reference:

"18. Procedure where Verification Committee is not satisfied with the documentary evidence. - (1) Where the Verification Committee is not satisfied with the documentary evidence annexed with Application, it may, within fifteen days from the date of receipt of application

or within fifteen days of reference by Non-Applicant shall inform the Applicant or Non-Applicant, if any, stating the reasons of non-satisfaction thereby and shall give the Applicant, any opportunity to be heard;

Provided that the Verification Committee shall complete hearings in not more than three months and in case where the Committee is of opinion that the Certificate seems to have been obtained wrongly or fraudulently it shall forward the original certificate along with relevant documents and its findings to the Scrutiny Committee for inquiry under Rule 20 and shall also inform the Applicant and Non-Applicant, if any.

(2) Verification Committee shall maintain details of forwarded certificates to the Scrutiny Committee in FORM-5F.

CHAPTER IV

Inquiry, Cancellation and Forfeiture of Certificates

19. Registration of the Cases by High Power Certification Scrutiny Committee. - (1) The High Power Certification Scrutiny Committee shall register the referred cases by Verification Committee or by the State Government or by the State Government in FORM-5G.

20. Inquiry of the Case through Vigilance Cell. - (1) The Scrutiny Committee shall forward the Certificate and copies of all relevant documents in cases referred to it by Verification Committee or by the State Government or any other authority in FORM-6A to the Vigilance Cell constituted under Deputy Superintendent of Police;

(2) The Deputy Superintendent of Police through subordinate Police Inspector shall inquire into the case and inform Scrutiny Committee accordingly;

(3) Police Inspector of Vigilance Cell shall -

(a) search places of local residence, domicile and general residence of Applicant or the city, town or village of his origin before migration;

(b) ascertain the truth regarding the Social Status as claimed by the Applicant or his parents or his Guardian, as the case may be, on the basis of public documents;

(c) verify the information stated in the application submitted to Verification Committee by the Applicant on the basis of relevant public documents and reliable private documents;

(d) obtain information from Village Kotwar, Village Sarpanch, Halka Patwari, Local Ward Member, Other Public Representatives, Local Gazetted Officers, such local members already having a Certificate and who are knowing well the Applicant

and if any of them agrees to record his oral statement then he shall record his statement accordingly or shall request important witnesses to give their statement on oath and in case they agree, shall obtain the affidavit accordingly and give a copy of the same to the witness concerned;

(e) given an opportunity to the Applicant himself and parents of the Applicant and shall record the statement of witnesses indicated by them or shall obtain their affidavits;

(f) if during the examination it is found that the Applicant or any other person has maliciously forged the document, after getting the photocopy of the relevant pages, seize the document with the help of local police and shall seal and send the document to Deputy Superintendent of Police of Vigilance Cell and shall give a receipt and copy, to the authorities having custody of the documents;

(g) submit his report alongwith all documents to the Deputy Superintendent of Police after completing the investigation.

(4) Deputy Superintendent of Police, after obtaining necessary permission of the Scrutiny Committee shall send the document seized by the Police Inspector for forensic test and to handwriting expert alongwith appropriate noting.

(5) The Deputy Superintendent of Police shall submit the Inquiry Report containing his clear opinion regarding social status of the Applicant, alongwith documents received from Police Inspector and conclusions of forensic and handwriting expert to the Scrutiny Committee.

(6) The Scrutiny Committee shall examine such report and in case it finds any deficiency in the report shall revert the same to the Vigilance Cell after indicating such deficiency and may direct for inquiry on specific issues.

(7) Police Inspector and Deputy Superintendent of Police shall maintain details of above mentioned investigation of the case in FORM-5H. "

18. The action to be taken on the report of the Vigilance Cell is provided under Rule 21 of the 2013 Rules. Rule 22 deals with the enquiry by the High Power Certification Scrutiny Committee. We find it appropriate to extract Rules 21 and 22 as well, which are in the following terms:

"21. Action on the Report of Vigilance Cell. - (1) If in the Inquiry Report of Vigilance Cell, claims regarding

social status of the Applicant has been reported as just and proper then there shall be no further action needed by the Scrutiny Committee and it shall intimate accordingly to the concerned Verification Committee or the State Government, as the case may be, and to the Applicant.

(2) If the matter is referred by the State Government, the case shall be filed/closed at the State Government level with intimation to the Applicant and if the matter as been referred by the Verification Committee, then the Verification Committee after due verification in the manner provided under Rule 17 shall send the Original and Verified Certificate to the Applicant or Non-Applicant, as the case may be.

22. Inquiry by High Power Certification Scrutiny Committee. - (1) Where the Scrutiny Committee is not satisfied with the social status claim of the Applicant, according to the inquiry Report of the Vigilance Cell the committee may through registered post shall issue a show-cause notice to Applicant in prescribed FORM-6B alongwith report of the Vigilance Cell and the copy of such notice shall also be given to the Non-Applicant (if any) also.

(2) After receiving the reply of the Applicant, the Scrutiny Committee shall convene a meeting wherein it shall direct the Applicant to produce his/her Certificate in original and the Applicant shall be given adequate opportunity of hearing and producing evidence.

(3) The Scrutiny Committee shall also issue a public notice regarding the hearing, which shall be widely publicised in the village or announced by beat of drum, advertisement or through some other convenient means, so that any person or institution may support or oppose the applicant's claim and such person or institution shall also be accorded an opportunity of hearing and producing evidence, if any.

(4) After giving reasonable opportunity of hearing to the Applicant or to his guardian (in case the applicant is not an adult), Scrutiny Committee may conduct such enquiry, so as to consider the claim and other objections.

(5) Scrutiny Committee may send the notice or summons for service to the Tehsildar, Additional Tehsildar, Nayab Tehsildar, who shall serve the notice in the manner as directed in FORM-6C."

Submission made by the learned counsel for the Appellant is that, if at all there was any doubt with regard to the caste status of the Appellant, he ought to have been served with a notice as envisaged under Rule 18 of the 2013 Rules, granting an opportunity to defend the same. It is to be noted

that the exercise envisaged under the said Rule is with regard to the course to be pursued by the Verification Committee (if not satisfied with the documentary evidence produced alongwith the application for issuance of a caste certificate). This Rule, as such, is not attracted to the issue which is to be dealt with in this case. The cause of action is more in relation to the 'vigilance report' and according to the Appellant, vigilance report stands in favour of the Appellant; whereas the stand of the Respondent/State is that the vigilance report in no manner certifies the caste status of the Appellant, but casts certain aspersions and doubts in the minds, which made the Scrutiny Committee to have issued the show cause notice.

19. Going by Rule 20 of the Rules, on receipt of the proceedings by the Scrutiny Committee, as referred to it by the Verification Committee or the State Government or by any other authority in FORM-6A, enquiry has to be conducted, for which it has to be forwarded to the Vigilance Cell. Sub Rule (4) says that such enquiry has to be conducted by the Deputy Superintendent of Police, through the subordinate Police Inspector. Sub rule (3) specifically mentions that the Police Inspector of the Vigilance Cell shall conduct the enquiry with reference to the various aspects as mentioned therein and shall submit a report to the Deputy Superintendent of Police with all the documents, after completing the investigation. Under sub-rule (5), the Deputy Superintendent of Police is required to submit the enquiry report containing his 'clear opinion' regarding the social status of the applicant, alongwith the documents received by the Police Inspector and the conclusions of forensic and handwriting experts, to the Scrutiny Committee. On receipt of the said report, the Scrutiny Committee shall examine the same and in case it finds any deficiency in the report, it can revert the same to the Vigilance Cell after indicating such deficiency and direct for enquiry on specific issue, as mentioned in sub rule (6) of Rule 20 of the 2013 Rules. The further course of action, on receipt of the vigilance report is mentioned

in Rule 21. Sub rule (1) of Rule 21 says that if the enquiry report of the vigilance cell clears the claim regarding the social status of the applicant as just and proper, there shall be no further action at the hands of the Scrutiny Committee and it shall intimate the Verification Committee or the State Government, as the case may be, and to the applicant, accordingly. However, if the Scrutiny Committee is not satisfied with the social status claim of the Applicant, according to the enquiry report of the Vigilance Cell, the Scrutiny Committee is required to issue a show cause notice to the Applicant in the prescribed form i.e. FORM-6B by registered post, as specified under sub rule (1) of Rule 22. The main dispute with regard to the course sought to be pursued by the Scrutiny Committee invoking the power and procedure in terms of Rule 22 of the Rules.

20. The challenge mainly is with reference to the contents of the Vigilance Report (Annexure P/7), which according to the Appellant, as mentioned already, is in favour of him; whereas, according to the State/Department, it virtually does not declare the caste status of the Appellant and hence, the Scrutiny Committee, being not satisfied is absolutely justified in issuing the notice.
21. We have gone through the said report submitted by the Vigilance Cell to ascertain whether the said report clearly declares the social status of the Appellant. The relevant portions sought to be relied on by the Appellant (giving the English translation by the learned counsel then and there) have been brought to our notice. Similar exercise has been pursued by the learned Additional Advocate General as well, insofar as the State is concerned with the issue. So as to have clarity, we thought it better to have the matter considered exhaustively and accordingly, one of us (Parth Prateem Sahu, J) has prepared an English translation of the gist of the report, to have an easy understanding of the same. After going through the report as above, we find that there is no specific declaration of the social

status of the Appellant so as to have the matter closed in all respects or to injunct the Scrutiny Committee from proceeding further. At the same time, it is also true that the said report does not say anything with regard to obtaining of the certificate by the Appellant in a 'fraudulent' manner.

22. The learned Additional Advocate General reiterates that the notice issued contains the word 'fraudulent' only by virtue of the contents of the prescribed form as given therein (in conformity with the mandate under Rule 22 of the 2013 Rules). It is stated that the enquiry is not intended or sought to be conducted with a pre-conceived mind, inferring that the certificate was obtained by the Appellant in a 'fraudulent' manner. It is always open for the Appellant to have all the relevant materials produced and it is stated that the same would be looked into.
23. It will be worthwhile in this context, to note the stand of the Appellant with regard to the acceptability or otherwise of the Annexure P/7 Vigilance Report in the earlier round of litigation. When the Appellant now contends before this Court that Annexure P/7 Vigilance Report virtually stands in favour of him, the stand of the Appellant was something else, when the matter was taken up before this Court in the earlier round of litigation. This is discernible from paragraph No. 2 of the judgment rendered by the Division Bench of this Court on 30.01.2018 as reported in ***Ajit Pramod Kumar Jogi*** (supra). For convenience of reference, the said paragraph is extracted below:

"2. Different grounds are raised by the Writ Petitioner, impeaching the impugned order. They include criticism of the procedure adopted in issuing the impugned decision; non-adherence of due procedure in terms of the Act and the rules framed thereunder, namely the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013; the 'Rules' for short; the manner in which the first Respondent acted upon the Vigilance Report and the alleged failure to accord opportunity to impeach that report of the Vigilance Team which is criticized as having violated the requirements of

the Rules and the Act in collecting data. Institutional malice is also attributed by pleading that the Committee was so reconstituted that it was tailor-made to ensure that the decision making was exclusively in the hands of one person."

This is further fortified by the observation with reference to the submissions made across the bar, as taken note of by the Bench in paragraph 6, which is also reproduced below for convenience of reference:

"6. There are certain issues which have been raised by the Petitioner as well as the learned Advocate General and the learned Advocates for the Intervenors. They include questions relating to adherence or violation of Rule 20 and FORM 6-B of the Rules. Submissions were made on the effect of the statements given by the different persons whose versions have been taken by the Vigilance Committee; the evidentiary value of the documentary evidence and the nature of materials on the basis of which conclusions have been arrived at by the Vigilance Committee and the first Respondent against the Writ Petitioner. Certain submissions were also made on the issue as to whether the Petitioner, his parents and his relatives; being the followers of Christianity; would be entitled to claim the status as members of the Scheduled Tribe; as also, whether the Petitioner had been able to show that the only conclusion could have been that he belonged to the Scheduled Tribe "Kanwar", as claimed by him."

24. Based on the discussions made in the paragraphs 1 to 13, the Bench focused on the issue with regard to the constitution of the Committee, as mentioned in paragraph 14, which is to the following effect:

"14. Whatever we have deliberated upon and stated in the previous paragraphs lead us to the further fact pleaded by the Writ Petitioner regarding the manner in which Annexure P/1 was issued by one person acting in three different capacities, whereby manifest injustice came to permeate vividly. Reverting to the directions in *Madhuri Patil (supra)*, the clear direction in paragraph 13.4 to the State Governments was to constitute a Committee of three officers. This was quoted and followed in *Laveti Giri (supra)* and treated them as guidelines to be followed. In the inter-parties judgment: *Collector, Bilaspur (supra)*, the procedure detailed in *Madhuri Patil (supra)* was quoted and it was then stated that what was formulated in *Madhuri Patil (supra)* is a scheme for verification of tribal status. It was held that any application for verification has to be carried out by such Committees constituted as per the directions in *Madhuri Patil (supra)*. We see a clear ray of judicial wisdom in insisting the formation

of Scrutiny Committees with three members, thereby ensuring that the decision-making is carried by a body of persons. While the Act does not prescribe any particular number of persons to be in the High Power Certification Scrutiny Committee to be constituted under Section 7, the District Level Certificates Verification Committees to be constituted under Section 6 of the Act are to have six members of which one would be Chairman and the another would be the Member Secretary. The absence of such statutory guideline regarding the constitution of High Power Certification Scrutiny Committee under Section 7 of the Act, cannot lead to a reasonable conclusion that High Power Certification Scrutiny Committee could be constituted otherwise than by having justifiably requisite number of members. This would, obviously, be the reason why four officers are included in the Committee that was constituted in terms of Section 7(1) of the Act as per Annexure R-64 Notification issued on 22.08.2013."

25. As discernible from paragraph 19, it is seen that the matter was argued from the part of the Appellant that the data collection and the contents of the Vigilance Report were not acceptable and was sought to be challenged to some extent, however, adding that even if those materials were treated as legally brought on record, they did not disclose any incriminating fact or factor or circumstance against the writ petitioner so as to prevent him from continuing to enjoy the benefit of the Tribal status of 'Kanwar' as claimed by him. We extract the relevant portion of 'paragraph 19' of the judgment as well, so as to have clarity in this respect, as given below:

"19.....It was argued on behalf of the Petitioner that even if those materials are treated as legally brought on record, they do not disclose any incriminating fact, factor or circumstance against the Petitioner continuing to enjoy the benefit of certification as to the tribal status of "Kanwar", as claimed by him....."

It was based on the said analysis, that the constitution of the Committee effected by the Government with reference to the 'so-called order dated 17.03.2017' was interdicted, giving a direction to reconstitute a proper Committee and to have the matter finalised from the stage as it existed just prior to 17.03.2017. It was for the very same reason, that the learned Judges made it clear in 'paragraph 20' of the judgment that no proceeding

prior to 17.03.2017 was interdicted by the Court as per the said judgment and that the further proceedings might go on from that stage, with liberty to the writ petitioner or any person aggrieved to contest such "prior proceedings" as and when the proceedings by the duly constituted statutory Committee got concluded. This, of course, is also with reference to the objections with regard to the 'Vigilance Report', as raised in the earlier round of litigation; which however appears to be contrary to the present stand, when the Appellant says that the Vigilance Report stands in favour of him.

26. Coming to Annexure P/7 report, as mentioned already, there is no specific observation or declaration of the caste status of the Appellant, to the effect that he belongs to 'Kanwar' caste which is a Scheduled Tribe. Nothing to hold it the other way round is brought to our notice from the part of the Appellant, but for adding that there is no inference as to any 'fraudulent act' on the part of the Appellant. As observed in the foregoing paragraphs, the 'fraudulent aspect' is mentioned only in the notice, which is in the 'prescribed form' and hence could not be changed. The Additional Advocate General has conceded that such a term is mentioned therein, only since they were not in a position to have it altered and as such, the term 'fraudulent' cannot have any significance or relevance with regard to the scope of enquiry, unless it is brought out and established before the appropriate forum and that the Appellant is not called upon to say anything with regard to the 'fraudulent' nature of the certificate, but for the adjudication of the correct social status whether he is belonging to 'Kanwar'- a Scheduled Tribe or not and that's all.
27. The learned counsel for the Appellant lastly points out that no reason has been stated by the Scrutiny Committee while issuing the notice under challenge, as to why he is not satisfied with the report of the Vigilance Cell. This question is raised because of the fact that the Scrutiny Committee,

according to the Appellant is a quasi-judicial authority and as such, the reasons have to be shown. It is true that no reason has been stated in the notice (Annexure P/1) with regard to the dissatisfaction expressed, but then, the point to be looked into is whether the report gives a "clear opinion" as to the caste status of the Appellant in terms of the relevant rules, in particular, Rule 22 of the 2013 Rules as discussed above. As noted already, it was obligatory for the Police Officer to conduct the enquiry and to have given a 'clear opinion' in his report to the Deputy Superintendent of Police and it is the said report which is to be looked into, for further process of evaluation. On going through Annexure P/7 (which also forms part of Annexure P/1) report of the vigilance cell, it is seen that the said report does not declare that the Appellant is a member belonging to 'Kanwar' community which is a Scheduled Tribe entitled to have the benefit of the said community. Insofar as there is no such specific declaration, the expression of dissatisfaction in so many words, in relation to the further course of action to be pursued by the Scrutiny Committee becomes irrelevant and the proceedings cannot be closed without further probe. It is in the said circumstance, that the Scrutiny Committee has sought to proceed with further steps, so as to get the caste status declared and confirmed in an appropriate manner, by conducting an enquiry, enabling the Appellant to bring out all the relevant materials which are sought to be relied on in this regard; as directed by the Apex Court. It is for the Scrutiny Committee to have the matter considered in all respects with reference to the caste status of the Appellant.

28. In the above circumstances, the Appellant shall file objections/additional objections, if any and produce the relevant records before the Scrutiny Committee peremptorily within a period of 'one month' from the date of receipt of a copy of this judgment. If the objections and documents are not submitted within the time as aforesaid, it will be open for the Scrutiny Committee to proceed in accordance with law and arrive at a finding with

regard to the social status of the Appellant, based on the relevant materials brought on record. A proper finding shall be recorded by passing a 'speaking order' after conducting the proceedings in a fair and transparent manner, without any room for any complaint in this regard.

29. We hold that the learned Single Judge has rightly declined interference. Appeal fails. It stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE