

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 24/09/2019****Judgment Delivered on : 25/09/2019****Writ Appeal No. 432 of 2019***{Arising out of Order dated 04.09.2019 passed in Writ Petition (C) No. 3068 of 2019 by the learned Single Judge}*

Sant Kumar Netam S/o Late Sarvan Singh Netam, aged about 50 years, R/o Uslapur, Tahsil Takhatpur, District Bilaspur Chhattisgarh..

---- Appellant**Versus**

1. Ajit Pramod Kumar Jogi S/o Shri K.P.Jogi, aged about 73 years, R/o Anugrah Sagaun Bungalow, Civil Line Raipur, Chhattisgarh
2. The Committee: High Power Certification Scrutiny Committee (Through its Member Secretary) Pandit Dindayal Upadhyay Nagar, Sector-4, Raipur, Chhattisgarh
3. State of Chhattisgarh, Through its Chief Secretary, Mahanadi Bhawan, Atalnagar, Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Sudeep Shrivastava and Shri Sandeep Dubey, Advocate
For Respondent No. 1	: Shri Gary Mukhopadhyay, Advocate.
For Respondent/State	: Shri Vivek Ranjan Tiwari, Additional Advocate General.

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

C.A.V. Judgment**Per P.R. Ramachandra Menon, Chief Justice**

1. Rejection of IA No. 3 of 2019, filed by the Appellant for impleadment/intervention in Writ Petition (C) No. 3068 of 2019, as per the Annexure A/5 order dated 04.09.2019 passed by the learned Single Judge is put to challenge in this appeal.

2. Heard Shri Sudeep Shrivastava and Shri Sandeep Dubey, the learned counsel representing the Appellant, Shri Gary Mukhopadhyay, the learned counsel representing the 1st Respondent/Writ Petitioner and Shri Vivek Ranjan Tiwari, the learned Additional Advocate General representing the State.

3. Declaration of the caste status/social status of the 1st Respondent herein by the High Power Certification Scrutiny Committee (for short 'the Scrutiny Committee') constituted pursuant to the verdict passed by the Hon'ble Apex Court in ***Ku. Madhuri Patil v. Additional Commissioner, Tribal Development & Others***, (1994) 6 SCC 241; holding that he is not a Tribal, is sought to be interdicted in the writ petition filed by the 1st Respondent. Pointing out that the Appellant was a necessary party and that he was consciously avoided to be impleaded, despite the fact that it was on the basis of his complaint preferred in the year 2001 that the caste status of the 1st Respondent/Writ Petitioner was sought to be scrutinized; that he has all along been fighting for the cause being a tribal and a tribal activist for nearly 18 years and further that he was permitted to be impleaded as a 'proper party' by a Division Bench of this Court in the earlier round of litigation, IA No. 3 of 2019 was filed for impleadment/intervention. Applications for impleadment/intervention were filed by some others as well.

4. The learned Single Judge observed:

(i) that the challenge in the writ petition is primarily against the order passed by the Scrutiny Committee cancelling the social status certificate of the Writ Petitioner of his belonging to Scheduled Tribe community;

(ii) that it is a personal dispute between the Writ Petitioner and the Scrutiny Committee which has got nothing to do with the Applicants/Intervenors or their social status;

(iii) that the Applicant/Intervenor has nothing more to contribute at this stage of the litigation, it being primarily in the nature of writ of certiorari to set aside the quasi-judicial order passed by the Scrutiny Committee;

(iv) that fate of the writ petition would not have any direct or indirect infringement of any of the personal rights and liberties of the Applicant/Intervenor;

(v) that merely because the Applicant/Intervenor happens to belong to a particular community or Tribe, would not give the privilege of intervening in a dispute related to social status of a person who has a certificate in his favour for the category to which the Applicant/Intervenor belongs;

(vi) that the Applicant/Intervenor might have questioned the social status of the Writ Petitioner at one point of time and he might have raised the dispute before the High Court as well, but once the dispute is finalised by the Scrutiny Committee, the course of action pursued by the Scrutiny Committee based on the available materials on record alone forms the subject matter of consideration;

(vii) that if only the course decision in a particular case might adversely affect the proposed Intervenor's interest, would alone he become eligible to intervene by filing an application;

(viii) that a stranger to the dispute cannot be permitted to meddle with the proceedings, unless he satisfies the Court that he is an "aggrieved person" who may suffer a legal injury;

(ix) that the judicial review to be exercised by the Court was supervisory in nature and

(x) that a right to intervene is a very limited right, only in the event of the personal right of the Intervenor gets adversely affected, if at all the writ petition is allowed.

It was accordingly, that the learned Single Judge observed that the above requirements were not satisfied and hence the IA was rejected as mentioned above.

5. The learned counsel for the Appellant points out that serious prejudice has been caused to the Appellant and his Tribal community who is having every right to bring the actual facts and figures to the notice of the authorities/Court, more so since it was at his instance that the complaint filed in the year 2001 against the 1st Respondent/Writ Petitioner was acted upon; ultimately leading to the declaration of the caste status of the writ Petitioner/1st Respondent as not being a Tribal. Earlier, the adverse order passed against the 1st Respondent/Writ Petitioner as to the caste status by the competent authority (at the instance of the Appellant) was challenged before this Court wherein the Appellant was impleaded as a Respondent by the writ Petitioner himself. Verdict was passed by this Court in favour of the 1st Respondent/Writ Petitioner, also mulcting huge cost upon the Appellant holding that the fight was due to political vendetta.

6. The above verdict was challenged by the Appellant before the Apex Court, where the judgment of this Court was set aside and a '*de novo*

enquiry' was ordered, as per the decision reported in **Collector, Bilaspur v. Ajit P.K. Jogi & Others**, (2011) 10 SCC 357. Pursuant to the above judgment, the Government constituted a Scrutiny Committee and after completing the enquiry [in which the Appellant also participated by virtue of the rights under Rule 22(3) of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013], a finding was rendered against the 1st Respondent/Writ Petitioner. On challenging the said order by filing WPC No. 2104/2017, the Appellant had filed IA No. 3 of 2017 to intervene/impleadment which was considered and allowed by a Division Bench of this Court as per Annexure A/1 order dated 19.09.2017. Later, observing that constitution of the Scrutiny Committee was not proper, the order under challenge was set aside and the matter was directed to be finalised afresh, from the stage of the proceedings as it stood on 17.03.2017.

7. In compliance with the above direction, a proper Scrutiny Committee was constituted by the Government, who issued notice to the 1st Respondent/Writ Petitioner. The notice was sought to be challenged by him by filing WPC No. 1573 of 2019, which was dismissed 'in limine', as borne by Annexure A/2 order dated 02.05.2019. The appeal preferred by the 1st Respondent/Writ Petitioner (Writ Appeal No. 279 of 2019) also came to be dismissed as per Annexure A/3 verdict dated 03.07.2019 (passed by us).

8. The learned counsel submits that in both of the above proceedings, application for impleadment/intervention was filed, but since both the writ petitions as well as the writ appeal came to be dismissed in *limine*, there was no need to have the IAs acted upon any further. After dismissal of the appeal, the matter was finalised by the Scrutiny Committee and a clear finding was rendered, declaring that the 1st Respondent/Writ Petitioner did not belong to the Tribal community, as claimed, and Annexure P/1 order dated 23.08.2019

was passed; which is put to challenge in Writ Petition (C) No. 3068 of 2019. The learned counsel points out that this is not a case questioning the caste status of the 1st Respondent/Writ Petitioner in connection with admission to any educational institution or employment; but it is having a larger perspective, insofar as the 1st Respondent/Writ Petitioner, on the fake caste certificate obtained, has been contesting the 'Election' from the Constituency earmarked for a Scheduled Tribe as a representative of Scheduled Tribes and that the Appellant or the members of Scheduled Tribes cannot have and accept the 1st Respondent/Writ Petitioner as a member of Scheduled Tribe, to have them represented. This gives him the status as an "aggrieved party", to have submitted the application for impleadment/intervention.

9. The learned counsel further points out that the name and role of the Appellant have been specifically adverted to by the 1st Respondent/Writ Petitioner at many places in the writ petition and in particular, paragraph 8.5, 8.6, 9.46 etc. and as such, it is necessary for the Petitioner to clarify the position as and when reference is made to such instances, to bring the actual facts and figures to the notice of the Court.

10. The learned counsel for the Appellant submits that the 2nd Respondent is a quasi-judicial authority, whose order has been put to challenge in the writ petition and that the said authority was being represented in the earlier proceedings, including in Writ Petition (C) No. 1573 of 2019 (Annexure A/2) and Writ Appeal No. 279 of 2019 (Annexure A/3) by none other than the Additional Advocate General, who appeared for the State as well and hence, no separate notice is necessary.

11. The learned Additional Advocate General representing the other Respondents concedes that there is no dispute with regard to the facts and

sequence and that the IA filed for impleadment/intervention was not opposed from the part of the State by filing any written objection.

12. Almost similar submission is made by the learned counsel representing the 1st Respondent/Writ Petitioner, who adds that the role of the Intervenor in the earlier round of litigation was restricted by the learned Judges, as borne by the observations in 'paragraph 12' of Annexure A/1 verdict; holding that they would be treated only as "proper parties", though not necessary parties, and therefore would stand excluded from placing on record any pleadings by incorporating any further facts or documents. The learned counsel submits that the 1st Respondent/Writ Petitioner did not choose to implead the Intervenor only in the said circumstance, as nothing was to be contributed by the Intervenor. It is however added that the said Respondent/Writ Petitioner had not filed any objection to the application for impleadment/intervention and that there is no objection for 'intervention', but for impleadment as a necessary party.

13. The observations made by the Division Bench of this Court in paragraph 12 of Annexure A/1 order, in the earlier round of litigation, while dealing with Writ Petition (C) No. 2104 of 2017, are to the following effect:

"(12).....Shri Sant Kumar Netam is the person who had moved the National Commission leading to the chain of events through the scrutiny procedures and the different judgments which has now resulted in Annexure P/1 which is challenged in this writ petition. In this factual context, we are of the view that ends of justice require that Shri Sant Kumar Netam, the applicant in I.A. No. 3 of 2017 and the National Commission for Scheduled Tribes and its Chairman who are applicants No. 1 & 2 in I.A. No. 7 of 2017 are permitted to intervene in the matter subject to what would be stated hereinafter. Those persons who have been permitted intervention are treated as proper parties, though not necessary parties, and therefore are excluded from placing on record any pleadings by incorporating further facts or documents since the judicial review of impugned Annexure P/1 would obviously stand confined to

matters germane for decision on that issue in terms of law settled through different judicial precedents. Their applications are ordered accordingly."

14. The position is almost the same, as it was existing when Annexure A/1 order was passed by the Bench. The proceedings finalised by the Scrutiny Committee arriving at an adverse finding as to the caste status of the 1st Respondent/Writ Petitioner which is now challenged in the writ petition. In the said circumstance, we do not see any reason to reject the claim of the Appellant, for having already expressed a view by the Division Bench, as extracted above and further since the name and involvement of the Appellant have been referred to at various places including in para 9.46 and elsewhere of the writ petition. Above all, absolutely no prejudice whatsoever would be caused either to the 1st Respondent/Writ Petitioner or the State in allowing the claim of the Appellant to get intervened in the proceedings and this aspect has been virtually conceded by the learned counsel representing the State as well as the learned counsel representing the 1st Respondent/Writ Petitioner. As it stands so, we find it appropriate to allow the claim of the Appellant to get intervened in the proceedings as a "proper party"; though, not as a necessary party, subject to the rider fixed by the Division Bench of this Court earlier, as contained in 'paragraph 12' of Annexure A/1 order.

15. In the above facts and circumstances, the appeal stands allowed. The order dated 04.09.2019 passed by the learned Single Judge will stand modified to the said extent insofar as it relates to the Appellant. No costs.

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

Sd/-
(Parth Prateem Sahu)
JUDGE