

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 19.11.2019

Judgment pronounced on 19.12.2019

Writ Appeal No. 442 of 2019

(Arising out of Order dated 04.09.2019 passed by Hon'ble Single Judge in WPC-3068 of 2019)

- Sameera Paikara, D/o Late Gangaram Kanwar, Aged About 37 Years, R/o Umarkholi, Post Office Jogishar, Tahsil Pendra Road, Police Station Gaurella, District Bilaspur, Chhattisgarh

---- Appellant

Versus

1. The Committee High Power Certification Scrutiny Committee (Through Its Member Secretary), Pandit Deendayal Upadhyay Nagar, Sector-4, Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Its Chief Secretary, Mahanadi Bhawan Mantralaya, Atal Nagar, Raipur, Chhattisgarh
3. Ajit Pramod Kumar Jogi S/o Late Shri K.P. Jogi Aged About 73 Years R/o Anugrah, Sagaun Bungalow Civil Lines, Raipur, Chhattisgarh

-----Respondents

For Appellant	: Shri JK Gilda, Senior Advocate with Shri Harsh Wardhan, Advocate
For Respondents- 1 and 2/State	: Shri Sudeep Agrawal, Deputy Advocate General for the State/Respondents-1 and 2
For Respondent-3/Writ Petitioner	: Shri Gary Mukhopadhyay, Advocate

**Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
CAV Judgment**

Per Parth Prateem Sahu, J.

1. Challenge in this appeal is to Order dated 04.09.2019 (Annexure A1) learned Single Judge in WPC-3068 of 2019 whereby application for impleadment/intervention filed by the appellant was dismissed.
2. Brief facts relevant for disposal of this appeal are that a proceeding has been initiated by respondent- 1 ie High Power Certification Scrutiny

Committee (for short, 'Scrutiny Committee') for verification of social status of respondent-3. After completion of enquiry proceedings initiated by Scrutiny Committee, it is ordered that respondent- 3 failed to prove his being a member of Schedule Tribe Community and of Kunwar Caste, cancelled the Caste certificate issued in favour of respondent- 3. The said order dated 28.02.2019 of the Scrutiny Committee was put to challenge by respondent-3 in WPC-3068 of 2019. The appellant herein filed an application for intervention before the learned Single Judge in proceedings of that Writ Petition mentioning therein that she raised objection in the proceedings before respondent- 1 and also participated in the proceedings before the Caste Scrutiny Committee. It was also submitted that she belongs to Kunwar Caste and indeed she is having a public image and also fought an election of Legislative Assembly against son of respondent- 3 from constituency reserved for Schedule Tribe category candidates. Therefore, she is having a right to intervene in the Writ Petition, being necessary party.

3. Learned Single Judge while considering the intervention application filed by the appellant seeking permission to intervene in Writ Petition, has also considered the other intervention applications filed by some other persons and dismissed all the applications for permission to intervene in the Writ Petition by impugned order. It is the said order which is sought to challenge in this Writ Appeal.

4. Learned Senior Advocate for the appellant submits that present appellant has contested the Assembly election against the son of respondent- 3 from Marwahi constituency which is reserved for the

member belonging to Schedule Tribe Community. She belongs to the Kunwar Community (ST), has raised objection in proceedings before the Scrutiny Committee and produced material before Scrutiny Committee. It is also submitted that so far as the material and evidence placed by her in her objection in proceedings before Scrutiny Committee, she alone could be the best person to bring it to the notice of the Writ Court. He also submitted that the appellant also stands on the same footing as of Shri Sant Kumar Netam, who has been permitted to intervene in the Writ Petition by this Court in Writ Appeal- 432 of 2019. Hence she may be permitted to intervene in Writ Petition.

5. Shri Sudeep Agrawal, learned Deputy Advocate General opposes the submission made by learned Senior Counsel for the appellant and submits that the material, if any, is to be placed by the appellant has already been placed before the Scrutiny Committee. It is not a Public Interest Litigation but only the social status of respondent- 3 was verified by the Committee and passed an order against respondent-3. The prime dispute is between respondent- 1 and respondent- 3. He further submits that the learned Single Judge taking into consideration that the appellants neither a necessary nor proper party in the facts of the case, rightly dismissed the application and the Order is within the four corners of law.

6. Learned counsel for respondent- 3 submits that it is a private dispute between the Scrutiny Committee and respondent- 3. Rights of the appellant will not be affected by the Order to be passed in Writ Petition.

7. Heard Shri JK Gilda, learned Senior counsel assisted by Shri Harsh Wardhan, learned counsel for the appellant, counsel Shri Sudeep Agrawal, learned Deputy Advocate General for the State and Shri Gary Mukhopadhyay, learned counsel for respondent- 3.
8. The order impugned in the Writ Petition is the Order passed by respondent- 1 where by the social status certificate (Caste Certificate) issued in favour of respondent- 3 is cancelled. Respondent- 1 before passing the said order, had given opportunity of hearing, placing evidence to the parties representing before him and only thereafter the order dated 28.02.2019 is passed. Scrutiny Committee is impleaded as respondent- 1 in the Writ Petition. The impugned order in appeal itself shows that respondent- 1 is being represented by Senior Counsel to defend and to justify the order passed by Scrutiny Committee impugned in Writ Petition.
9. Learned Single Judge in writ proceedings has only to consider whether the Scrutiny Committee has passed the order impugned in Writ Petition after following due procedure as prescribed under the scheme of Chhattisgarh Scheduled Caste, Scheduled Tribes and other Backward Classes (Regulation of Social Status Certification) Act, 2013, there was sufficient material and evidence available on record before respondent- 1 to pass an order of cancellation of social status certificate issued in favour of respondent- 3, proper opportunity of hearing was afforded to the parties, etc. For appreciating the evidence and other material placed on record before respondent- 1, learned Single Judge has already summoned records of the Scrutiny Committee.

10. Learned Single Judge while considering the application for intervention filed by the appellant and after hearing the respective counsel for the parties, dismissed all the applications by observing the following:-

- (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.

11. It is not a case where some fresh evidence is required to be placed for arriving at a particular finding, but for the jurisdiction which is to be exercised by learned Single Judge, he has to consider the legality and propriety of order dated 23.08.2019 passed by the Scrutiny Committee on the basis of the evidence and material available in records of respondent-1 and the law applicable to it alone.

12. The other ground raised by learned counsel for the appellant is that one of the applications filed by Shri Sant Kumar Netam for intervention was allowed and the appellant also stands on similar footing, is also not sustainable because the position of Shri Sant Kumar Netam is different from the position of the appellant herein. It is Shri Sant Kumar Netam on whose application/complaint proceeding of social status verification of respondent- 3 was initiated by the Scrutiny Committee and in an earlier round of litigation in WA-432 of 2019, Division Bench of this Court allowed the application for intervention filed by him regarding social status of respondent-3 with the following observation:

“14. The position.....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.”

13. The appellant and Shri Sant Kumar Netam, for the reasons assigned above, stand on different footings and therefore, the appellant cannot be extended same benefit or relief.

14. The second submission made by learned counsel for the appellant also does not stand.

15. The main dispute is between respondent- 1 and respondent-3. The right of permission to intervene can be granted only when the right of applicant is being adversely affected by the outcome of such proceedings wherein he or she made an application for permission to intervene.

16. It is not a Writ Petition filed under 'Public Interest Litigation' but the Writ Petition is an outcome of proceedings of an order passed by Scrutiny Committee against respondent- 3.

17. For the aforementioned reasons we do not find any perversity or infirmity in order passed by learned Single Judge. The appeal being devoid of any substance, which is liable to be and is hereby dismissed.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge