

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2408 of 2021

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Khusboo Ara, Daughter of Md. Quamruzzama Adil, Resident of Ward No. 13, Madhaili Bazar, P.O. Madhaili Bazar, P.S. Shankarpur, District- Madhepura, presently Mukhiya of Gram Panchayat Raj, Bishariya, Block- Bhargama, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Government of Bihar, Patna.
2. The Caste Scrutiny Committee, Bihar Through the Chairman-cum-Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary General Administration Department, Government of Bihar, Patna-cum- Chairman, Caste Scrutiny Committee, Bihar.
4. The Deputy Secretary Welfare Department, Government of Bihar, Patna-cum-Member, Caste Scrutiny Committee, Backward and Extremely Backward Class.
5. The Under Secretary General Administration Department, Government of Bihar, Patna-cum-Member, Caste Scrutiny Committee, Bihar.
6. The District Magistrate, Madhepura Madhepura
7. The District Magistrate, Araria District- Araria
8. Smt. Ruksana Praveen Daughter of Md. Shahzahan Resident of Village- Majarahi, P.S.- Bhargama, District- Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam
For the Respondent/s : Mr. Fazle Karim, AC to SC 1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 31-08-2021

Heard Mr. S. B. K. Manglam, learned Counsel for the petitioner and Mr. Fazle Karim, learned Assistant Counsel to Standing Counsel No. 1 for the State.

2. The petitioner has filed the present writ application for quashing the proceeding of General Committee of Caste



Scrutiny Committee, dated 03.05.2018 (Annexure P-13), whereby the Committee has determined the caste of the petitioner as 'Sheikh' instead of 'Shekhra', i.e. Extremely Backward Class (BC-1).

3. Learned Counsel for the petitioner submits that the petitioner is the daughter of Md. Quamruzzama Adil and she was married with her cousin, Naurez Alam, in the year 2008. Before her marriage and before she was elected as Mukhiya of the Bishariya Gram Panchayat, the petitioner was granted the caste certificate of 'Shekhra' caste, which comes under the Extremely Backward Class (BC-1), by the Circle Officer, Bhargama, vide Certificate No. 844, dated 18.08.2005 (Annexure P-1). He further submits that the blood relatives of the petitioner had been granted the caste certificates of 'Shekhra' caste way back in the year 1997 up to 2015 and some of the blood relatives of the petitioner were granted the caste certificates of 'Shekhra' caste in the year 1966 also. The petitioner appeared in the secondary school examination conducted by the Bihar School Examination Board in the year 2007 and in the admit card issued in favour of the petitioner, her caste status has been mentioned as BC-1.

4. Learned Counsel for the petitioner further submits that in the year 2016, the State Election Commission, Bihar,



notified panchayat election for Bishariya Gram Panchayat and the petitioner filed her nomination to contest the said election for the post of Mukhiya of the Bishariya Gram Panchayat, which, according to the petitioner, was reserved for the female of Extremely Backward Classes. Since the petitioner belongs to the 'Shekhra' caste, which falls under the Extremely Backward Class, she filed her nomination in order to contest the post of Mukhiya of Bishariya Gram Panchayat on the basis of her caste certificate issued in the year 2005. At the time of scrutiny of nomination, no objection was raised either by respondent no. 8 or from any other quarter. Accordingly, the nomination of the petitioner was accepted without any objection and she was declared elected for the post of Mukhiya of Bishariya Gram Panchayat. At this stage, respondent no. 8 filed a complaint before the State Election Commission under Section 136 (2) of the Bihar Panchayat Raj Act, 2006 with a prayer to disqualify the petitioner on the ground that the petitioner did not belong to the Extremely Backward Class community.

5. Before receipt of the complaint made by respondent no. 8, the State Government had already constituted a State-level Caste Scrutiny Committee as per the direction of the Hon'ble Supreme Court, in the case of **Kumai Madhri Patil v. Additional Commissioner**, reported in **(1994) 6 SCC 241** and accordingly,



the State Election Commission requested the Caste Scrutiny Committee for determination of the caste status of the petitioner. The Caste Scrutiny Committee of the General Administration Department directed the Crime Investigation Department to conduct enquiry in this matter and submit report. The Crime Investigation Department constituted a team for holding enquiry and before the Enquiry Committee, constituted by the Crime Investigation Department, the petitioner placed all the relevant documents in support of her caste 'Shekhra' for its consideration including the caste certificates of her blood relatives, who were enjoying the status of 'Shekhra' caste since 1966 onwards. The Crime Investigation Department submitted its report to the Inspector General of Police (Weaker Section), Crime Investigation Department, on 05.02.2018, which was forwarded to the General Administration Department. After receipt of the report, the General Administration Department issued a notice to the petitioner, vide letter no. 2919, dated 01.03.2018 (Annexure P-10), stating therein that the Crime Investigation Department, in its enquiry report, has come to the finding that the caste of the petitioner is 'Sheikh', which comes under the general category and the petitioner was directed to file her statement of defence upon the enquiry report submitted by the Crime Investigation Department.



6. In response to the notice, dated 01.03.2018, the petitioner filed an application, dated 19.04.2018, before the Caste Scrutiny Committee of the General Administration Department, stating therein that the enquiry report sent through speed post was not delivered to the petitioner, however, learned Counsel for the petitioner could obtain the copy of the enquiry report on 04.04.2018, but the same was also incomplete enquiry report inasmuch as from perusal of the enquiry report, it transpired that the compact disc (CD), which contains the videography of the enquiry and form part of the enquiry report was not provided to the petitioner and also the evidence/documents, relied upon by the Enquiry Committee, in course of enquiry, were not supplied to the petitioner at any point of time. Accordingly, the petitioner requested that a copy of the compact disc (CD) along with the evidence/documents, relied upon by the Enquiry Committee, be also furnished to the petitioner to enable her to submit adequate defence.

7. Learned Counsel for the petitioner, referring to the statements made in paragraphs 25 and 26 of the writ application, forcefully submits that neither the compact disc (CD) nor the evidence collected during the enquiry, which were part of the enquiry report, has been supplied to the petitioner. However, the



petitioner submitted her show cause before the Caste Scrutiny Committee of the General Administration Department on 03.05.2018 in absence of the relevant documents supplied to her by the respondent authorities and in paragraph 4 of the show cause, facts regarding non-supply of materials, relied upon by the Enquiry Committee, has categorically been stated. Learned Counsel next submits that in her reply, dated 03.05.2018, apart from the objections regarding non-supply of the materials relied upon by the Enquiry Committee, the petitioner placed evidence in support of her claim that she belongs to the 'Shekhra' caste, which falls under the Extremely Backward Class (BC-1), the details of which are mentioned in her response to the enquiry report, but the respondent no. 2, i.e. the Caste Scrutiny Committee, Bihar, through the Chairman -cum- Principal Secretary, General Administration Department, Government of Bihar, Patna, without appreciating the fact that the materials relied upon by the Enquiry Committee were not furnished to the petitioner and without taking into consideration the evidence produced by the petitioner in her reply, has merely come to the finding that the Caste Scrutiny Committee is in agreement with the finding of the enquiry report submitted by the Crime Investigation Department and determined the caste of the petitioner as 'Sheikh', which comes under the



general category (unreserved category) and rejected the claim of the petitioner belonging to the 'Shekhra' caste, which falls under the Extremely Backward Class (BC-1) category. Learned Counsel, referring to the impugned order, submits that the impugned order has been passed in cavalier manner also inasmuch as in paragraph 5 of the impugned order, the respondent-Committee has recorded that up till 03.05.2018, no written statement of defence was submitted by the petitioner, but in paragraph 7 of the said impugned order, it has been recorded by respondent no. 2 that no cogent evidence has been produced by the petitioner in her statement of defence, dated 03.05.2018.

8. Accordingly, the submission of leaned Counsel for the petitioner is that the impugned order has been passed in flagrant violation of principle of natural justice and it also suffers from the vice of non-application of mind inasmuch as none of the materials/evidence relied upon by the petitioner in her statement of defence has been taken into consideration by the Caste Scrutiny Committee of the General Administration Department.

9. *Per Contra*, learned Counsel for the State, referring to the contents of the counter affidavit, submits that the allegation made by the petitioner that complete enquiry report was not supplied to her is baseless because the petitioner and her Advocate



appeared in the meeting, dated 03.05.2018, but this point was not raised before the Caste Scrutiny Committee of the General Administration Department. He, referring to paragraph 16 of the counter affidavit, submits that if any report or enquiry report was wanted by the petitioner, she could have obtained prior to the meeting of Caste Scrutiny Committee of the General Administration Department or she could have asked for some extra time for giving reply, but the petitioner failed to do so, as such, the instant case is fit to be dismissed having no merit.

10. During hearing of this case, on 17.08.2021, learned Counsel for the State sought ten days' time to take instruction on the point of supply of copy of enquiry report including the documents/CD, relied upon by the Enquiry Officer, to the petitioner, but today, during the course of hearing, learned Counsel for the State failed to produce any supplementary counter affidavit denying the specific statement of the petitioner regarding non-supply of compact disc (CD) and the relevant materials/documents as stated in paragraphs 25 and 26 of the writ application. Vide order, dated 16.03.2021, notice was issued to respondent no. 8, but despite valid service of notice upon her, she did not appear.

11. After having heard learned Counsel for the parties concerned and after carefully gone through the materials available



on record, particularly paragraphs 25 and 26 of the writ application, it appears that the petitioner has made categorical statement about non-supply of the materials relied upon by the Crime Investigation Department in course of enquiry, which has not been denied by the respondent-State in its counter affidavit and no reply of paragraph 25 and 26 of the writ application has been given by the respondent-State in its counter affidavit, and only a vague statement has been made on behalf of the State that the petitioner did not raise this point before the Caste Scrutiny Committee of the General Administration Department when she appeared, along with her Advocate, in the meeting, dated 03.05.2018.

12. From perusal of the reply of the petitioner upon the enquiry report, dated 03.05.2018 (Annexure P-12), I find that the petitioner has categorically stated that documents and evidence, which form part of the enquiry report, were not furnished to her.

13. Accordingly, I come to the conclusion that the impugned order, dated 03.05.2018 (Annexure P-13), passed by the General Committee of the State Level Scrutiny Committee, is violative of principle of natural justice and the same is hereby quashed and the matter is remitted back to the Caste Scrutiny Committee of the General Administration Department to pass a



fresh order in accordance with law and after furnishing all the relevant materials/documents/evidence/compact disc (CD) etc. to the petitioner, relied upon by the enquiry committee of the Crime Investigation Department, preferably within a period of three months from the date of receipt/production of a copy of this order.

14. This writ application is allowed to the extent indicate above.

15. However, there shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-09-2021
Transmission Date	N/A

