**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO.1225/2020

Ku. Srushti D/o Ganesh Dikondwar,
aged about 21 Yrs., Occ. Student,
R/o Behind Rudra Avtar Press,
Agrasen Marg, Dharampeth,
Nagpur - 440 010. ..Petitioner.

..Vs..

1. Joint Commissioner & Vice-Chairman,
   Schedule Tribe Scrutiny Committee,
   Adivasi Vikas Bhawan, Giripeth,
   Nagpur.

2. Director,
   National Fire Service College,
   Government of India, Ministry
   of Home Affairs, Rajnagar,
   Nagpur - 440 030.

3. Assistant Professor,
   Head of Office, National Fire
   Service College, Government of India,
   Ministry of Home Affairs, Rajnagar,
   Nagpur - 440 030. ..Respondents.

Shri S.R. Narnaware, Advocate for the petitioner.
Shri N.R. Patil, A.G.P. for respondent No.1.
Ms Sushma, Advocate for respondent Nos.2 and 3.

**CORAM :- SUNIL B. SHUKRE AND
AVINASH G. GHAROTE , JJ.
DATED :- 30.3.2021**

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality is proper.

2. Heard. **Rule**. Rule is made returnable forthwith. Heard finally by consent of the parties.

3. The petitioner claims that her social status is that of "Chatri" which is a scheduled tribe as declared under the Constitution (Scheduled Tribes) Order, 1950. According to learned counsel for the petitioner, tribe "Chatri" is the same tribe as "Chattri" as given in the list of scheduled tribes under the Constitution (Scheduled Tribes) Order, 1950. The petitioner also contends that there is a pre-constitutional document of the year 1934 which shows that the social status of the petitioner was that of a tribe known as "Chatri". Learned counsel for the petitioner, therefore, submits that the impugned order passed by the Caste Scrutiny Committee is illegal and deserves to be quashed and set aside. This has been disagreed to by learned A.G.P. and learned counsel for respondent Nos.2 and 3.

4. The Constitution (Scheduled Tribes) Order, 1950 declares a tribe "Chattri" as a scheduled tribe by showing it at serial No.22 of the order. It is well settled law that entries in the constitutional order must be read as they stand in the order and it is not permissible for the Court to read something into the order which is not manifestly in it and the Court cannot add a single word or letter or comma or delete

the same from the constitutional order. This is also the view taken by this Court when it rejected a similar case filed by one Madhuri D/o Ramesh Talewar and another V/s. Scheduled Tribe Caste Certificate Scrutiny Committee and others [Writ Petition No.804/2021 decided on 5th March 2021].

5. The pre-constitutional document in possession of the petitioner shows her social status as “Chatri” and not as “Chattri”. The constitutional order does not make any mention of the caste or tribe “Chatri”. Therefore, just because there is some similarity in the nomenclature of the social status claimed by the petitioner with the tribe declared by constitutional order, no benefit can be given to the petitioner.

6. At this stage, learned counsel for the petitioner submits that the petitioner should be permitted to complete her fire engineering course as the petitioner was provisionally admitted and permitted to complete half of the course by clearing examinations of 4 semesters and it was only in 2020 that the petitioner came to be removed from the college. He submits that if relief is granted to the petitioner by considering her case as a special case, the loss which would be otherwise caused to the petitioner, could be saved.

7. We find that a similar prayer made by the petitioner has been rejected specifically by this Court by passing an order on 9th February, 2021 while disposing of the Civil Application No.1093/2020. That apart, the petitioner had given an undertaking when she was granted provisional admission. Undertaking is to the effect that she would produce her caste validity certificate by the end of academic session 2020 - 2021, failing which as per the rules of Rashtrasant Tukdoji Maharaj University the petitioner shall stand disqualified for taking admission in the further academic session starting from 2020 - 2021. The order of the scrutiny committee came on 15th February, 2020 before the start of the next academic session 2020 - 2021 and, therefore, as per own undertaking given by the petitioner, she had already stood disqualified for taking admission to further course. So, no such relief as claimed about completion of course can be granted by this Court.

8. Here, we may also consider the law laid down by the Supreme Court in the case of *Chairman and Managing Director, Food Corporation of India and others V/s. Jagdish Balaram Bahira and others* reported in **2017 (4) Mh.L.J. 898.** The Apex Court while dealing with the argument that if no special protection in the nature of permission to complete the course is granted to a candidate who has

already substantially completed the academic course it would cause great prejudice to such candidate, has held that such a candidate cannot be granted special protection or special benefit and doing so would be a negation of rule of law. The Apex Court has observed that this is the only manner in which sanctity of the system can be preserved and that the legal system cannot be seen as an avenue to support those who make untrue claims to belong to a caste or tribe or socially and educationally backward class. The Supreme Court has further observed in paragraph 54 that these benefits are provided only to designated castes, tribes or classes in accordance with the constitutional scheme and cannot be usurped by those who do not belong to them and this is how the credibility not merely of the legal system but also of the judicial process is saved from erosion.

9. In paragraph 41 of the said judgment of *Jagdish Bahira*, the Supreme Court also considered the decision of the Bench of three Judges in *R. Vishwanatha Pillai V/s. State of Kerala* reported in **(2004) 2 SCC 105** and reiterated the principle that was laid down in that case which, in our opinion, constitutes another reason for refusal to grant protection. The principle reiterated was that where an appointment to a post or admission to an educational institution is made against a vacancy reserved for scheduled caste or tribe or socially and

educationally backward class and it is subsequently found that such appointment or admission could not have been made because the candidate's caste or tribe certificate has been invalidated, the necessary consequence would be of rendering of the appointment or the admission as being *void* and *non est*. It is observed that the formal termination of an employment or the withdrawal of admission is a necessary consequence which flows out of the invalidation of the caste or tribe claim and if any exception to this principle is to be made, it would be perhaps in exercise of the power conferred by Article 142 of the Constitution of India upon the Supreme Court of India and that too in cases which are considered to be appropriate and proper by the Apex Court. There have been a few more cases in which identical view has been taken. One of them is the case of Chief Regional Officer, the Oriental Insurance Company V/s. Pradip and another reported in (2020) 11 SCC 144 decided by the Supreme Court on 27th January, 2020 wherein it is held that withdrawal of benefit in terms of revocation of employment or the termination of an admission comes forth as a necessary corollary to invalidation of the caste claim on which basis the appointment or admission was obtained.

10. At this stage, Shri Narnaware, learned counsel for the petitioner relying upon the decision rendered by the Apex Court in the

case of the State of Maharashtra & Anr. V/s. Keshao Vishwanath Sonone & Anr., Civil Appeal No.4096/2020, decided on 18.12.2020 again renews his prayer for grant of special protection. In this case, the Apex Court had given a direction that the admission taken on the basis of scheduled tribe certificates granted to the persons between 14.8.2018 till the date of the judgment would not be affected by the judgment and these persons would be allowed to retain the benefit of scheduled tribe availed of by them while securing the appointment or admission. We do not think similar protection can be granted here for the simple reason that in the case of Keshao Sonone (supra) which was heard along with petition filed by Adim Gowari Samaj Vikas Mandal and others, the tribe validity certificates were granted to various persons by following a judicial pronouncement to the effect that the caste Gowari had to be read as the scheduled tribe "Gond Gowari" referred in Item 28 in Entry 18 of the constitutional order and it was on the basis of such judicial pronouncement that the tribe validity certificates were granted to various persons. Here, no such judicial pronouncement has been there and it was the individual act of the petitioner claiming particular social status *dehors* any judicial decree which was responsible for whatever has happened in the present case. In the case of Keshao and the petition filed by Adim Gowari Samaj Vikas Mandal and others it were not the candidates or

the persons at the individual levels who were found to have made false claims as belonging to scheduled tribe but their claims were based on the judicial pronouncement declaring that the caste "Gowari" having been eradicated, be read as scheduled tribe "Gond Gowari". Then, as stated by us earlier, the petitioner would be bound by her own undertaking in the present case and, therefore, the argument cannot be accepted.

11. Learned counsel for the petitioner invites our attention to the view taken by the Supreme Court in the case of *Dattu S/o Namdev Thakur V/s. State of Maharashtra and others* reported in **(2012) 1 SCC 549**. The Supreme Court has found in paragraphs 5 and 9 that even if the findings of the caste scrutiny committee are accepted, Court could not ignore the various circumstances that intervened between the issuance of the caste certificate and the cancellation thereof. Considering these intervening circumstances, the Apex Court directed that whatever advantages the petitioners therein may have derived on the basis of their caste certificates shall not be disturbed and the cancellation of their respective caste certificates would not deprive them of the benefits which they have already enjoyed. This judgment has been specifically considered by the Supreme Court in Jagdish Balaram Bahira (supra) and thereafter the Apex Court laid down the

principles which we have discussed earlier. Therefore, we are of the considered view that the petitioner cannot take assistance from the case of Dattu S/o Namdev Thakur (supra).

12. In the circumstances, the petition is rejected. Rule is discharged.

JUDGE **JUDGE**

Tambaskar.