

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19084 of 2021

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Baidhnath Singh Son of Motilal Singh R/o Ward no. - 08, Basti Jalal, P.S.-
Dighwara, District -Saran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
3. The Additional Secretary, Department of General Administration, Government of Bihar, Patna.
4. The District Magistrate, Saran, Bihar.
5. The Sub-Divisional Officer, Saran, District - Saran.
6. The Block Development Officer, Dighwara, P.S. Dighwara, District - Saran.
7. The Circle Officer, Dighwara, P.S.- Dighwara, District - Saran.
8. The Revenue Officer, Dighwara Anchal (Dighwara Block Area) P.S.- Dighwara, District - Saran.
9. The Assistant Returning Officer-cum-Administrative Officer of Panchayati Elections, Basti Jalal Panchayat area, ward no. - 08, Dighwara Block, P.S.- Dighwara, District - Saran.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Saket Anand, Advocate
For the Respondents-State: Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 21-06-2022

In the instant application though the petitioner had initially made several prayers, he has confined his prayer for setting aside the order dated 16.10.2021 passed by the Circle Officer, Dighwara, Saran vide order no.581 dated 16.10.2021 whereby the caste certificate issued to the petitioner declaring



him to be member of 'Dangi' caste was cancelled.

2. Learned counsel for the petitioner submitted that the petitioner belongs to 'Dangi' caste. In this respect, a certificate was granted to him under the signature of the Revenue Officer (respondent no.7) on 12.05.2021. He submitted that the caste 'Dangi' has been placed in schedule I at serial no.127 of the extremely backward caste vide Notification No.10398 dated 30.07.2015 of the Government of Bihar. On 24th August, 2021, the State Election Commission is notified the Panchayat Elections in the State of Bihar to be held in eleven phases. The election of the block to which the petitioner belonged was scheduled to be held on 03.11.2021 in the 6th phase of the Panchayat Election, 2021. After filing the nomination, the impugned order dated 16.10.2021 was passed by the Circle Officer, Dighwara, Saran cancelling the caste certificate granted in favour of the petitioner earlier. The Circle Officer recorded in the impugned order that the petitioner does not belong to 'Dangi' caste.

3. Learned counsel for the petitioner contended that the Hon'ble Supreme Court in **Kumari Madhuri Patil and Anr. vs. Additional Commissioner, Tribal Development and Others** since reported in (1994) 6 SCC 241 issued direction



whereby all the State Governments were directed to constitute a committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In case of any complaint in respect of caste certificate, the verification was required to be done by the said scrutiny committee. He contended that in the instant case, the caste certificate has been cancelled by the Circle Officer in complete violation of the direction given by the Hon'ble Supreme Court in **Kumari Madhuri Patil** (supra). He contended that the impugned order passed by the Circle Officer is wholly without jurisdiction.

4. The State has filed its counter affidavit wherein it has been stated that after submission of the nomination paper by the petitioner, his attached caste certificate of 'Dangi' caste was sent to the Circle Officer, Dighwara, Saran by the Block Development Officer, Dighwara vide letter dated 16.10.2021 for verification and opinion. Thereafter, the Circle Officer, Dighwara, Saran duly enquired into the matter and called for a



detailed report from Halka Karamchari, who after going through all the relevant papers, reported that in Khatiyan land appertaining to Thana No.2, Khata No. 96 situated in village-Basti Jalal under Dighwara Block, Saran is recorded in the name of Pati Koyeri, Sohayee and Ram Prasad, S/o Sri Ram & Ors, caste-‘Koyeri’. The said Ram Prasad is grandfather of the petitioner Baidhyanath Singh, who belonged to the ‘Koyeri’ caste.

5. Learned counsel appearing for the State submitted that considering the report of the Halka Karamchari and after going through the revenue records, the Circle Officer, Dighwara came to the conclusion that the caste of the petitioner is ‘Koyeri’ and not ‘Dangi’. He contended that under the aforesaid circumstance, the Circle Officer rightly cancelled the caste certificate granted in favour of the petitioner earlier.

6. When confronted without the judgment of the Hon’ble Supreme Court in **Kumari Madhuri Patil (supra)**, he fairly conceded that the Circle Officer ought not to have passed the impugned order.

7. We have heard learned counsel for the parties and perused the materials on record.

8. The Hon’ble Supreme Court in **Kumari Madhuri**



Patil (supra) issued altogether fifteen guidelines to streamline the procedure for social status certificates, their scrutiny and approval. The relevant guidelines enumerated in Para-13 of the said judgment are being extracted hereunder for ready reference:

"1. xxx xxx xxx

2. xxx xxx xxx

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.



5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in overall charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned



etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any



other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after



inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. xxx xxx xxx

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

12. No suit or other proceedings before any other authority should lie.

13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be



regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.”

9. It would be pertinent to note here that subsequently some modification was made in the constitution of the committee referred to above vide judgment reported in **(1997) 5 SCC 437 (Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and Others)**.



10. In **Farzana Sabaff vs. the State of Bihar & Ors.** since reported in **2014 (3) BBCJ 631**, a dispute relating to disqualification on the ground of invalid caste certificate came before this Court. It would be manifest from the perusal of the Para-11 of the judgment of the said case that in the counter affidavit the State had admitted that a committee was duly constituted pursuant to the direction no.4 given by the Hon'ble Supreme Court in **Kumari Madhuri Patil** (supra). Para 11 of the judgment in **Farzana Sabaff** (supra) is extracted hereunder for ready reference:

“11. Counter affidavits have been filed on behalf of the respondent nos. 2 and 3 and also the respondent no. 4 defending the impugned order passed by the Collector. On the issue of constitution of scrutiny committee, raised by the petitioner during earlier hearings, a counter affidavit was also filed on behalf of the Principal Secretary, General Administration Department, Government of Bihar stating that the State Government in compliance of the direction of the Apex Court contained in Civil Appeal No. 5854 of 1994 (**Kumari Madhuri Patil v. Additional Commissioner, Scheduled Tribes**), has already constituted a Directorate/Committee dealing with the cases of Scheduled Caste and



Scheduled Tribes vide memo no. 3887 dated 08.11.2007 However, on a question being asked to learned Additional Advocate General No. 11 as to whether a Committee of Directorate formed for concerned purpose for scrutiny of the certificate with respect to the Scheduled Caste/Scheduled Tribes would be able to verify the certificate granted to the Backward Classes or Extremely Backward Classes, an apparent lacunae appeared and adjournment was sought for rectification specially in view of the direction no. 4 given by the Apex Court in Kumari Madhuri Patil (supra) that for scrutiny of Backward Classes certificate the committee would have to be constituted consisting an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, the Director, Social Welfare/Tribal (sic) Welfare/Backward Class Welfare, has not been included in the committee. Thereafter, a supplementary counter affidavit has been filed on behalf of the Principal Secretary, General Administration Department, Government of Bihar appending therewith another resolution dated 05.02.2014 as Annexure A with a statement that now a separate committee has been formed for making inquiry with respect to caste certificates granted to the Backward Classes and Extremely Backward Classes.



There is a direction in Annexure A for immediate publication of this decision of the Government in the official Extra-Ordinary Gazette.”

11. In the State of Bihar, the caste certificate is issued by Revenue Authorities. After the judgment of the Hon’ble Supreme Court in **Kumari Madhuri Patil** (Supra), it has been settled that caste certificate duly issued by the Revenue Authorities who have been delegated with such power cannot be cancelled by the authority who has issued the caste certificate.

12. In the above view of the matter, it would be evident that the Circle Officer was not the competent authority to cancel the caste certificate of the petitioner rather it was the Scrutiny Committee constituted by the State Government which was empowered to do so. In these circumstances, the impugned order dated 16.10.2021 passed by the Circle Officer, Dighwara, Saran as contained in Annexure-5 to the present application is hereby set aside.

13. It would be open to the Circle Officer or any other authority of the State to approach the Scrutiny Committee formed pursuant to the direction issued by the Hon’ble Supreme Court in **Kumari Madhuri Patil** (supra) for verification of the



caste certificate of the petitioner and cancellation thereof. In case, such a dispute is raised before the Scrutiny Committee, it shall be required to examine the matter and decide the same in accordance with law as early as possible and preferably, within a period of three months.

14. With the aforesaid observation and direction, the writ petition is allowed to the extent indicated above.

(Ashwani Kumar Singh, J.)

(Dr. Anshuman, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.06.2022
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