

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24708 of 2019**

---

1. SC/ST Employees Association Bihar Head Office, Ambedkar Bhawan, Daroga Prasad Rai Path, Patna- 800001 through its General Secretary, Devendra Rajak, aged about 66 years, Male, Son of Late Chhotan Rajak, Resident of 4H/5 Bahadurpur Housing Colony, PS- Kadamkuan, District- Patna.
2. Sunil Kumar Son of Chakradhar Prasad Singh Resident of Flat No. 401, Sri Prasad Yogendra Complex, Plot No. 34 and 35, Kidwaipuri, PS- Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Under Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Principal Secretary, SC/ST Welfare Department, Govt. of Bihar, Patna.
5. The Union Govt. of India through Secretary, Ministry of Social Justice and Empowerment Ministry, Govt. of India, New Delhi.
6. The Director, Ministry of Tribal Affairs, Government of India, New Delhi.

... .. Respondent/s

---

**Appearance :**

|                      |   |                                                                                                                                      |
|----------------------|---|--------------------------------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr.Arvind Kumar Sharma, Advocate<br>Ms. Ritika Rani, Advocate<br>Ms. Sangeeta Kumari, Advocate<br>Ms. Mahasweta Chatterjee, Advocate |
| For the Respondent/s | : | Mr. Radhika Raman, C.G.C.<br>Mr. Awadhesh Kumar Pandey (Sr. Panel Counsel)                                                           |

---

**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 25-07-2022**

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

A For declaring decision taken by the State Government vide Memo No. 10818 dated 08-08-2016 issued under the signature of Additional Secretary, to the Govt. of Bihar, General Administration Department, Govt. of Bihar, Patna as contained in Annexure-4 by which caste Lohar has been included in Schedule Tribe caste after excluding from the Backward caste is in conflict of Article 342 of the Constitution of India, law laid down by the Hon'ble Supreme Court in the State of Maharashtra Vs. Milind & Ors reported in 2001(1) SCC 4 and in the case of E.V.Chinnaiah Vs. State of A.P (2005) 1 SCC 394 beyond the jurisdiction of the

*ultra vius*  
State of Bihar void, ab-initio, illegal and bad in law.

B Also for declaring Government decision vide letter no. 8137 dated 19-06-2019 issued under the signature of *Additional* ~~Under~~ Secretary to the Government, General Administration Department, Bihar as contained in Annexure- 5 for issuing caste certificate of Lohar of Schedule Tribe caste, is in conflict of Article 342 of the Constitution of India, void, illegal and bad in law.

C Also for quashing the order dated 08-08-2016 as contained in Annexure- 4 and order dated 19-06-2019 as contained in Annexure-5 issued by the General Administration Department, Govt. of Bihar giving status of Schedule Tribe in favour of caste Lohar.

D Also for directing the respondents to not give effect of the order as contained in Annexre-4 and 5 in giving status of Schedule Tribe in favour of Lohar which was in the list of Backward category in the state of Bihar.

E Also commanding the respondents to ensure the

benefit granted to the Schedule tribe caste cannot be curtailed in providing the benefit of caste Lohar pursuant to notification dated 08-08-2016 as contained in Annexure- 4 and letter no. 8137 dated 19-06-2019 as contained in Annexure-5.

F Also for necessary relief/reliefs, order/orders, direction/directions for which the petitioner is entitled in the eye of law.

Undisputedly, the issue is no longer *res integra*, for Hon’ble the Supreme Court has adjudicated the same in Sunil Kumar Rai & Ors. Vs. The State of Bihar & Ors. (Writ Petition (Civil) No. 1052 of 2021).

As such, as prayed for, petition is disposed of.

Interlocutory Application(s), if any, shall stand disposed of.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

veena/rajiv-

|                   |  |
|-------------------|--|
| AFR/NAFR          |  |
| CAV DATE          |  |
| Uploading Date    |  |
| Transmission Date |  |