

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**WP(C) No.1003 of 2010**

(Through Hybrid mode)

***Pinas Digal***

....

***Petitioner***

***-versus-***

***State of Odisha and others***

....

***Opposite Parties***

**Advocates appeared in this case:**

***For petitioner***

: Mr. Susanta Kumar Mishra, Advocate  
Mr. S. K. Joshi, Advocate  
Mr. S.K. Lenka, Advocate  
Mr. A. Mishra, Advocate

***For opposite parties***

: Mr. Y. S. P. Babu, AGA

**CORAM: JUSTICE ARINDAM SINHA**

**JUDGMENT**

**02.12.2022**

1. Mr. Mishra, learned advocate appears on behalf of petitioner and refers to order dated 22<sup>nd</sup> November, 2022. Text of the order is reproduced below.

*“1. Mr. Mishra, learned advocate appears on behalf of petitioner and submits, his client never procured social status*

*certificate. In spite thereof there was final order dated 12th November, 2009 directing, inter alia, appropriate disciplinary action to be initiated and his employer also directed accordingly. His client stood suspended on 25th April, 2008, soon after initiation of the purported enquiry by, inter alia, memo dated 18th January, 2008.*

*2. It appears from impugned final order there is no reference to a caste certificate procured by petitioner.*

*3. Mr. Babu, learned advocate, Additional Government Advocate appears on behalf of State and prays for adjournment to obtain instruction.*

*4. The writ petition being of year 2010 and impugning final order of the State Level Scrutiny Committee, it was to be decided within three months therefrom as per direction in **Madhuri Patil v. Addl. Commissioner, Tribal Development** reported in **AIR 1995 SC 94**. In the circumstances, there should not be adjournment but it is granted as peremptory.*

*5. List on 1st December, 2022.”*

He submits further by reliance on Odisha Scheduled Castes, Scheduled Tribes and Backward Classes (Regulation of Issuance and Verification of Caste Certificates) Act, 2012, section 3 provides for requirement of producing a caste certificate. Section 3 is reproduced below.

*“Any person belonging to any of the reserved category, **required to produce a Caste Certificate** in order to claim the benefit of any reservation provided to such reserved category*

*either in any public employment or for admission into any educational institution or any other benefit under any special provisions made under clause(4) of article 15 of the Constitution of India or for the purpose of contesting for elective post in any Local Authority or in the Co-operative Societies or for purchase or transfer of land from a tribal land-holder or any other purposes specified by the Government, shall apply in such form and in such manner as may be prescribed, to the Competent Authority for issue of a Caste Certificate.”*

(emphasis supplied)

2. Mr. Babu, learned advocate, Additional Government Advocate appears on behalf of the State and submits, his instructions are, the Employment Exchange sponsored petitioner as a scheduled caste candidate, for employment. This must have happened on petitioner having produced a caste certificate. On query from Court Mr. Babu is unable to disclose particulars of the case registered on the application, under which the caste certificate was issued. On pain of repetition it must be said that impugned final order of the State Level Scrutiny Committee does not disclose existence of a caste certificate, for there to be proceeding regarding establishing whether it is genuine.

3. In **Madhuri Patil** (supra), the Supreme Court laid down the procedure for issuance of caste certificate as in paragraph 12 of the judgment. The declared procedure is applicable also in proceeding before the State Level Scrutiny Committee on allegation of issuance of fake caste certificate. What emerges is, there must be existence of a caste certificate for the State Level Scrutiny Committee's jurisdiction to be invoked and thereupon exercised. In absence of existence of a caste certificate the State Level Scrutiny Committee acted without jurisdiction.
4. Impugned final order dated 12<sup>th</sup> November, 2009 is set aside and quashed. All consequential action taken pursuant thereto are also set aside and quashed.
5. The writ petition is allowed and disposed of.

**(Arindam Sinha)**  
**Judge**

*Prasant*