

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6614 of 2022

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Zeba Bakhtiar Wife of Shahjahan, Resident of Ward No. 11, Padampur, Police Station-Dighal Bank, District-Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Bihar, Patna.
3. The District Magistrate, Kishanganj.
4. Sub-Divisional Magistrate, Kishanganj.
5. The Public Grievance Redressal Forum, Kishanganj through the Sub-Divisional Magistrate, Kishanganj.
6. The Sub-Divisional Magistrate, Kishanganj.
7. The Circle Officer, Thakurganj, Kishanganj.
8. The Circle Inspector, Thakurganj, Kishanganj.
9. Zaffar Hussain, Son of Abdul Rashid, Village-Kathalbari (Padampur), Police Station-Dighal Bank, District-Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bindhyachal Singh, Sr. Adv. Mr.Prashant Sinha, Adv. Mr.Vipin Kumar, Singh, Adv.
For the State	:	Mr. Saroj Kumar Sharma, AC to AAG-3
For Pvt. Respondent No.9	:	Mr.Apurva Kumar, Adv. Mr.Avinash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 24-02-2023

The present writ petition has been filed for quashing the order dated 03.03.2022, passed by the District Magistrate/Collector, Kishanganj, in Caste Certificate Cancellation Appeal No.02 of 2022, whereby and whereunder the appeal has been allowed and the Caste Certificate, issued in favour of the petitioner by the Circle Officer, Thakurganj, on 28.11.2020, has



been cancelled.

2. The learned Senior Counsel for the petitioner has raised a short legal issue for consideration of this Court to the effect that after passing of the judgment by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil & Anr. vs. Additional Commissioner, Tribal Development & Others*, reported in *(1994) 6 SCC 241*, the Caste Scrutiny Committees of various States are only empowered to scrutinize the caste certificate issued with respect to the Scheduled Castes /Scheduled Tribes / Backward Classes and as far as the State of Bihar is concerned, Bihar State Caste Scrutiny Committee has been constituted long back, for making enquiry with respect to caste certificates, granted to the Scheduled Castes /Scheduled Tribes / Backward Classes/ Extremely Backward Classes, as such, the Collector, Kishanganj, was not competent to enquire into the genuineness of the Caste Certificate, issued to the petitioner by the Circle Officer, Thakurganj, vide certificate dated 28.11.2020. In this regard, the learned Senior Counsel for the petitioner has relied on a Division Bench judgment of this Court dated 21.06.2022, passed in CWJC No.19084 of 2021 (Baidhnath Singh vs. The State of Bihar & Ors.), relevant paragraphs whereof being paragraphs no. 9 to 13 are reproduced hereinbelow:-



“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.”

3. Per contra, the learned counsel for the respondents has not been able to refute the law laid down by the Ld. Division Bench of this Court in the case of **Baidhnath Singh** (supra), however, it is submitted that some timeframe be fixed for the Bihar State Caste Scrutiny Committee to decide the issue, pertaining to the genuineness of the caste certificate of the petitioner.

4. Having regard to the facts and circumstances of the case and considering the law laid down by the Hon'ble Apex Court in the case of **Kumari Madhuri Patil** (supra) as also by the Ld. Division Bench of this Court in the case of **Baidhnath Singh** (supra), this Court finds that it was not open for the Collector, Kishanganj, to cancel the Caste Certificate of the petitioner, vide order dated 03.03.2022, which was issued by the Circle Officer, Thakurganj, vide certificate dated 28.11.2020 and it is only the



State Caste Certificate Committee, which could have interfered in the matter, hence, the order dated 03.03.2022, passed by the District Magistrate/ Collector, Kishanganj, in Caste Certificate Cancellation Appeal No. 02 of 2022, is set aside, however, liberty is granted to the Respondents to approach the Bihar State Caste Scrutiny Committee, in case they are of the opinion that the Caste Certificate, issued to the petitioner, is not genuine and is inconsistent with the stipulations contained in the letter dated 08.03.2011, issued by the General & Administration Department, Bihar, Patna, for verification of the caste certificate of the petitioner and cancellation thereof. It is needless to state that in case the Respondents approach the Bihar State Caste Scrutiny Committee, it shall examine the case in hand and take a final decision, in accordance with law, within a period of three months.

5. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Ajay/Sonal-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10.04.2023
Transmission Date	NA

