

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9474 of 2017

1. Alok Kumar
2. Amit Kumar Kharwar
3. Ajit Kumar All Sons of Sri Chote Lal Kharwar, Resident of Village-Amaon, P.S. Chainpur, District Bhabhua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Personnel and Administrative Department, Govt. of Bihar.
2. The Principal Secretary, General Administrative Department, Govt. of Bihar,
3. The Secretary, Personnel and Administration Department, Govt. of Bihar.
4. The District Magistrate, Kaimur, Bhabhua.
5. The District Welfare Officer, Kaimur Bhabhua.
6. The Senior Deputy Collector, Incharge Legal Cell, Kaimur Bhabhua.
7. The Sub Divisional Officer, Bhabhua.
8. The Circle Officer, Chainpur, Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sachin Kumar,Adv.
For the Respondent/s : Mr.Suman Kr.Jha,AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 18-04-2023

The present writ petition has been filed seeking quashing of the order dated 30.05.2015 passed by the Circle Officer, Chainpur, District-Bhabhua i.e. the respondent no. 8, whereby and whereunder the caste certificates of the petitioners have been cancelled, which were issued by him on 28.08.2014.



2. The short point raised by the learned counsel for the petitioners is that first of all the aforesaid order dated 30.05.2015, is an ex-parte order and no opportunity of hearing was granted to the petitioners before passing of the same and secondly, after rendering of the Judgment by the Hon'ble Apex Court in the case of ***Kumari Madhuri Patil & Anr. vs. Additional Commissioner, Tribal Development & Ors.*** reported in ***(1994)6 SCC 241***, directing all the State Governments to constitute a Caste Scrutiny Committee, whereafter, in the State of Bihar also a Caste Scrutiny Committee has been constituted, the Circle Officer, or for that matter any state authorities are precluded from cancelling the caste certificate of the petitioners, and in case the authorities are of the view that the same warrants cancellation, they have to approach the Bihar State Caste Scrutiny Committee for the said purpose.

3. In this regard, the learned counsel for the petitioners has referred to a judgment dated 21.06.2022, rendered by a learned Division Bench



of this Court in C.W.J.C. No. 19084 of 2021 (**Baidhnath Singh vs. The State of Bihar and Others**), wherein it has been held that the Circle Officer is not a competent authority to cancel the caste certificate of the petitioners, rather it is the Caste Scrutiny Committee constituted by the State Government, which is empowered to do so.

4. In this connection, it would be apt to refer to paragraphs no. 10 to 13 of the said judgment rendered in the case of **Baidhnath Singh** (supra) hereinbelow:-

*“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."*

5. 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 learned Division Bench of this Court in the case of **Baidhnath Singh** (supra), the impugned order dated 30.05.2015, passed by the Circle Officer,



Chainpur, District-Bhabhua is not sustainable in the eyes of law, hence is set aside, however, liberty is granted to the respondent authorities to approach the Caste Scrutiny Committee, formed pursuant to the direction issued by the Hon’ble Apex Court in the Case of **Kumari Madhuri Patil** (supra), for verification of the caste certificates of the petitioners and cancellation thereof.

6. The writ petition stands allowed.

(Mohit Kumar Shah, J)

S.Sb/Sonal-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16.05.2023
Transmission Date	N/A

