

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12487 of 2022

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1. Ramesh Prasad Son of Late Ram Nath Prasad Resident of Village-Sohanipatti, P.O. and P.S.-Buxar, District-Buxar.
 2. Arpita Rani Daughter of Ramesh Prasad, Resident of Village-Sohanipatti, P.O. and P.S.-Buxar, District-Buxar.
 3. Ankita Rani Daughter of Ramesh Prasad, Resident of Village-Sohanipatti, P.O. and P.S.-Buxar, District-Buxar.
 4. Arastu Anand, son of Ramesh Prasad, Resident of Village-Sohanipatti, P.O. and P.S.-Buxar, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The District Welfare Officer, Buxar.
4. The S.D.O. (Sub-Divisional Officer), Buxar.
5. The Circle Officer, Buxar, P.O., P.S. and Block-Buxar, District-Buxar.
6. The Revenue Officer, Buxar, P.O., P.S. and Block-Buxar, District-Buxar.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Santosh Kumar, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC 25)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 05-05-2023

1. The present writ petition has been filed for quashing the order dated 23.05.2022, issued under the signature of the Revenue Officer, Circle office, Buxar, whereby and whereunder the Caste Certificates of the petitioners No. 2 to 4



have been cancelled.

2. The brief facts of the case are that the petitioners were born and brought up in a family belonging to the Kharwar Caste and the petitioner no. 1 is the father of the petitioners no. 2 to 4. It is also submitted that earlier also, the petitioner no. 1 had approached this Court by filing a writ petition bearing ***C.W.J.C. no. 10432 of 2005***, which was decided by a co-ordinate Bench of this Court vide judgment ***dated 12.02.2007***, whereby and whereunder it was held that the petitioner is a member of the Scheduled Tribe community. The said order dated 12.02.2007 was sought to be reviewed by filing a ***Civil Review petition bearing no. 137 of 2007***, however, the same was dismissed, whereafter though the respondents did not file any appeal but they also did not grant the petitioner No. 1, the benefits of being a member of the Scheduled Tribe, leading to the petitioner no. 1 filing a contempt petition bearing ***M.J.C. no. 817 of 2007***, wherein the respondent State had filed a show cause stating therein that they have appointed the petitioner in the services of the State of Bihar by treating him as a member of the Kharwar Caste. Now coming back to the present case, it is the case of



the petitioners that after proper enquiry and scrutiny, caste certificates showing the petitioners No. 2 to 4 to be members of the Kharwar community was issued on 05.05.2022 by the Revenue Officer. Nonetheless, the respondents have now cancelled the Caste Certificates of the petitioners No. 2 to 4 by the impugned order dated 23.05.2022, which has been passed without granting any opportunity of hearing to the petitioners.

3. At this juncture, it would be relevant to mention here that the Hon'ble Apex Court has rendered a judgment in the case of ***Kumari Madhuri Patil & Anr. v. Additional Commissioner, Tribal Development & Ors.***, reported in ***(1994) 6 SCC 241***, whereby and whereunder only the Caste Scrutiny Committees of various States are 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 inquiry with respect to the Caste Certificates granted to the Scheduled Castes/ Scheduled Tribes/ Backward Classes/ Extremely Backward Classes, hence no other officer



or authority is competent to inquire into the genuineness of the Caste Certificate, issued by the competent authority. In this connection, it would also be relevant to refer to a judgment rendered by the learned Division Bench 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 being reproduced herein below:-

“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, Govt. of Bihar appending therewith another resolution dt. 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."

4. *Per contra*, the learned counsel for the respondents has



not been able to refute the law laid down by the learned Division Bench of this Court in the case of ***Baidhnath Singh (supra)***, however, it is submitted that some time frame be fixed for the Bihar State Caste Scrutiny Committee to decide the issue, pertaining to the genuineness of the caste certificate of the petitioners.

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)***, this Court finds that it was not open for the Revenue Officer, Circle office, Buxar to cancel the Caste Certificates of the petitioners No. 2 to 4, by the impugned order dated 23.05.2022 and it is only the Bihar State Caste Scrutiny Committee which was/ is empowered to scrutinize the Caste Certificate in question, hence, the order dated 23.05.2022, passed by Revenue Officer, Circle office, Buxar is set aside not only on this ground but also on the ground that the same is an *ex-parte* order, passed without granting any opportunity of hearing to the petitioners. Nonetheless, liberty is granted to the Respondents to approach



the Bihar State Caste Scrutiny Committee, in case they are of the opinion that the Caste Certificates, issued to the petitioners, are not genuine and are 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 Certificates of the petitioners 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.

6. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.08.2023
Transmission Date	NA

