

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17978 of 2016 (O&M)
and other connected cases
Date of decision: 24.03.2023

Dr. Munish Kumar ..Petitioner

Versus

State of Punjab and others ..Respondents

CWP-21265 of 2016 (O&M)

Dr. Munish Kumar ..Petitioner

Versus

State of Punjab and others ..Respondents

CWP-18251 of 2021 (O&M)

Dr. Munish Kumar ..Petitioner

Versus

State of Punjab and others ..Respondents

CWP-18775 of 2016 (O&M)

Mrs. Rekha Rani ..Petitioner

Versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Birender Singh Rana, Senior Advocate, with
Mr. Maninder Jeet Singh, Advocate and
Mr. Navdeep Doon, Advocate
for the petitioner.

Mr. R. Kartikeya, Advocate,
for the petitioner (in CWP-18775 of 2016)

Mr. R.K.Kapoor, Addl.A.G., Punjab

Mr. D.P.S.Joura, Advocate
for respondent no.4.

ANIL KSHETARPAL, J(Oral)

1. Though, while trying to make out the case the petitioners have brought to the notice of the Court a long series of events, however, in view of consensus arrived at between the learned counsels representing the parties, this bunch of 4 writ petitions can conveniently be disposed of in the following manner:-

2. The Supreme Court in **Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and others (1994) 6 SCC 241**, has held that before cancelling the caste certificate, it would be incumbent to hold inquiry/investigation at two different levels. Certain guidelines were laid down by the Supreme Court which read as under:-

“4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to

investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgment due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be

made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should

communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution”.

3. In three writ petitions, Dr. Munish Kumar assails the correctness of the various inquiries initiated by the police into the complaint of having secured appointment on the basis of producing false Schedule Caste Certificates. Though, in the departmental proceedings, the Scheduled Caste Certificates have been found to be genuine.

4. Sh. Rana, the learned senior counsel representing Dr. Manish Kumar has brought to the notice of the court that in a police inquiry the Certificate was found to be genuine.

5. In a writ petition filed by Smt. Rekha Rani, the petitioner challenges the order by which her services were dispensed with as the same

was found to have been incorrectly issued.

6. The disciplinary authority has found that the petitioner, namely, Smt. Rekha Rani does not belong to the Scheduled Caste category. Smt. Rekha Rani is married to brother of Dr. Munish Kumar.

7. The Supreme court has held that it would be incumbent to hold inquiry/investigation at two different levels before cancelling a caste certificate. In *Harchand Singh and others vs. The State of Punjab and others*(Civil Writ Petition No.7421 of 2020 decided on 05.01.2021), this court has taken notice of the fact that the State of Punjab has constituted a Committee known as the Vigilance Cell and another Committee known as the State Level Scrutiny Committee.

8. In substance, the dispute that arises for adjudication is with regard to the fact “As to whether the petitioners in both the writ petitions belong to Scheduled Caste category or not?”

9. After having addressed the arguments at some length, the learned counsels representing the parties have come to a consensus. They jointly pray that the matter be directed to be examined, at the first stage, by the Vigilance Cell as constituted pursuant to the direction of the court in *Kumari Madhuri Patil 's case (supra)* and thereafter the matter be examined by the State Level Scrutiny Committee.

10. Keeping in view the aforesaid consensus arrived at between the parties, the writ petitions are disposed of by directing the Vigilance Cell and the State Level Scrutiny committee to complete their investigation within a period of 3 months, from today, positively.

11. In the peculiar facts of the case, in the meantime, the Police

Vigilance Cell of the State of Punjab shall not proceed with the matter till the report is received.

12. Needless to observe that Smt. Rekha Rani shall be at liberty to challenge the order passed by the disciplinary authority after the report is received.

13. All the pending miscellaneous applications, if any, are also disposed of.

March 24, 2023
nt (ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No