



2024:CGHC:45028

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order reserved on 6-11-2024Order delivered on 19-11-2024WPC No. 884 of 2015

1. Laxmi Narayan Mahto S/o Shri J.R. Mahto Aged About 54 Years R/o Sector-I, Street No.3, Professor Colony, Raipur, Chhattisgarh

... Petitioner

versus

1. State of Chhattisgarh Through Secretary, Department Of Revenue, New Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. High Level Caste Scrutiny Committee Through Secretary, Adim Jati Anusandhan Evam Prashikshan Sansthan, Pandit Deen Dayal Upadhyay Nagar, Sector-IV, Raipur, Chhattisgarh
3. Chief Post Master General, Raipur Division, Raipur, Chhattisgarh
4. Chief Superintendent Post Office, Raipur Division, Raipur, Chhattisgarh
5. Chhattisgarh State Scheduled Tribe Commission, Through its Secretary, 61, Jal Vihar Colony, Raipur, Chhattisgarh

... Respondents

For Petitioner : Mr. Chandresh Shrivastava, Advocate

For Respondent No.1&2/State: Ms. Upasana Mehta, Dy. Govt. Advocate

For Respondent No.5 : Mr. Sourabh Shukla, Advocate on behalf of
Mr. Ashutosh Singh Kachhawaha, Advocate

Hon'ble Shri Bibhu Datta Guru, Judge

CAV Order

1. By the present petition, the petitioner is questioning the order dated 09/01/2015 (Annexure P-1) passed by the High Power Caste Scrutiny Committee (henceforth 'the Committee') by which the caste certificate dated 06/02/1982 issued by the Divisional Organizer, Raipur, in favour of the petitioner, has been cancelled holding that the petitioner had secured the said caste certificate of Scheduled Tribe (ST) by submitting the documents relating to caste *Gadariya*, which belongs to Other Backward Class (OBC) and secured the appointment.

2. The facts of the case, as projected in the present writ petition, in brief, are that :
 - (i) The petitioner appointed in the Postal Department on the post of Postal Assistant in the year 1983 and thereafter promoted to the post of Inspector. According to the petitioner, he belongs to the caste *Dhangarh*, which is duly notified as ST and for which, the caste certificate issued in his favour on 06/02/1982. During service period, he was asked by the Department to submit the duly verified caste certificate. Pursuant to the said instructions, the petitioner obtained the caste certificate from the Tehsildar, Mahasamund on 01/08/1992 (Annexure P-3). In the meanwhile, certain complaints were made with regard to caste of the petitioner and on the basis of the same, the Department sought report from the Collector. After conducting the detailed inquiry, the report was submitted on 11/03/1999 (Annexure P-4) by the Office of the Collector (Tribal Welfare) Raipur, verifying the caste of the petitioner, which falls under the category of ST. Even the proceedings made before the Superintendent of Police have also

been dropped finding that no offence has been committed by the petitioner in submitting the caste certificate.

(ii) Despite the aforesaid fact, the Chief Superintendent, Postal Department sent a query with regard to caste verification of the petitioner which has duly been replied by the Additional Collector stating that the caste certificate of the petitioner is genuine. The petitioner contended that the caste *Dhankar/Dhangarh* is duly notified under the category of ST in the State of Chhattisgarh and the same also includes *Dhangarh/Gadhariya* which has been duly considered by the Chhattisgarh State Scheduled Tribe Commission and recommended for inclusion of the same within the term '*Dhangarh*' as notified by the Government. The said Commission also recommended to the State Government not to take any action on the basis of caste verification against the petitioner belonging to Dhangarh, Dhankar, Dhangar and Gadariya as after inquiry, the same are found to be belonging to Scheduled Tribe.

(iii) However, the Department referred the matter to the Committee for verification of the caste of the petitioner. After receipt of the same, the respondent No.2/Committee issued notice to the petitioner, to which the petitioner submitted his response and stated that he has not committed any illegality. Subsequently, the Committee summoned the petitioner for personal hearing wherein he submitted all the documents and stated that he belongs to *Dhangarh* Committee and he belongs to ST. However, the respondent No.2/Committee without considering the entire factual aspects of the case in its letter and spirit cancelled the caste certificate of the petitioner holding that the alleged certificate of Scheduled Tribe being in

possession of the documents relating to caste *Gadhariya*, which is belongs to OBC.

(iv) According to the petitioner, during the proceedings the respondent No.2/Committee relied on the inquiry report dated 31/12/2013 submitted by the Vigilance Cell but neither the Enquiry Officer or other persons whose statements were recorded have been summoned as witnesses in the proceedings, nor provide any opportunity to the petitioner to cross-examine them. While cancelling the caste certificate, the respondent No.2 directed the Department to take action against the petitioner. Hence, this petition.

3. (a) Learned counsel appearing for the petitioner would submit that once the legislation Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (for short 'the Act, 2013') and the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013 (for short, 'the Rules, 2013') came into force the same is applicable for verification of caste, because superseding the earlier order dated 06/12/2007, the General Administration Department by order dated 30/03/2013 constituted a new Committee for verification of the caste certificates referred by the Court, State Government and the District Level Caste Certificate Verification Committee. In the present Case, the complaint regarding the caste of the petitioner was made by the Senior Superintendent of Post, Raipur Division on 17/08/2012. The proceeding initiated for verification of the caste of the petitioner as per the Act, 2013 and the Rules, 2013, but the procedure as enumerated under the said provisions which came into existence on 29/04/2013 and 02/09/2013 respectively has not been followed.

(b) Learned counsel would further submit that from perusal of the order impugned, by which the caste certificate of the petitioner has been cancelled, it is manifest that the caste certificate of the petitioner has been verified by the Committee under the Act, 2013 and as such, the Committee is bound to follow the procedure prescribed under the Act, 2013 and the Rules, 2013. Learned counsel would submit that Section 6 provides for District Level Certificates Verification Committee and its power, whereas Section 7 speaks about High Power Certification Scrutiny Committee. According to the learned counsel, the employer may send the complaint to the District Level Certificates Verification Committee, who can refer the same to the Committee but in the present case, the High Power Caste Scrutiny Committee entertained the request of Senior Superintendent of Post, Raipur Division for verification of the caste of the petitioner and proceeded to verify.

(c) To buttress his contention, learned counsel would place reliance upon the decision rendered by the Supreme Court in the matter of *Mah. Adiwasi Thakur Jamat Swarakshan Samiti v State of Maharashtra*¹ and the coordinate Benches of this Court in the matters of *Premal Das Baghel v Anusuchit Jan Jati Praman Patra, (Chhattisgarh)*² and *Vidya Kumbhare v State of Chhattisgarh*³. He would also rely upon Rules 14 to 23 of the Rules, 2013 to submit that the authorities have not followed the procedure in its true perspective and deprived the petitioner from the opportunity of hearing and also deprived him from getting the opportunity to lead evidence and examine the witnesses.

1 AIR 2023 SC 1657

2 AIR OnLine 2018 CHH 932

3 AIR OnLine 2023 CHH 258

(d) Learned counsel would next submit that the impugned order is without jurisdiction as the respondent No.2/Committee could only verify the caste certificate referred to it by the State Government or by the District Level Caste Scrutiny Committee as per Section 7 of the Act, 2013. According to the learned counsel, there is a complete go bye to the procedure as prescribed under Section 6 of the Act, 2013 and the Rules 14 to 23 of the Rules, 2013, which provide additional right, opportunity and safeguard to the petitioner.

4. (A) Learned counsel appearing for the respondents, *ex adverso*, would submit that the Committee by following the guidelines and the decisions rendered by the Supreme Court in the matter of ***Kumari Madhuri Patil & Another v Addl. Commissioner, Tribal Development & Others***⁴ and ***Director of Tribal Welfare, Government of A.P. v Laveti Giri & another***⁵ got the matter inquired into by the respondent Nos.3 & 4 and during investigation, as per the records, it has been found that the caste of the petitioner has been recorded as *Gadhariya* which falls under the OBC category. Thereafter, the matter was investigated by the Vigilance Cell and after due verification of the case of the petitioner, the Vigilance Cell gave a report in which all aspects were dealt with. The Vigilance Cell, during investigation, has found that in the *missal bandobast* record of the year 1930-31, the caste of grandfather of the petitioner namely; Harinath Dhankar is recorded as *Gadhariya* and even in the dakhil-kharaj register of the year 1969 of Government Primary School, Kopara, Block Fingeshwar where the petitioner obtained the education of Class-III, his caste has been

4 (1994) 6 SCC 241

5 (1995) 4 SCC 32

recorded as *Gadhariya* and the statements of villagers of the petitioners have been recorded in which they categorically stated that the ancestor of the petitioner is residing since 2-3 generations and they were grazing the sheep and goat and in the village they are known as *Gadhariya* and the petitioner belongs to *Gadhariya* by caste. The respondent No.2/Committed has also got the case of the petitioner examined as per anthropological/ethnological terms as laid down by the Supreme Court in the matter of *Madhuri Patil* (supra).

(B) Learned counsel would further submit that the Committee afforded sufficient opportunity of hearing to the petitioner to submit the documents proving the social status to be the *Dhangarh* ST category of the State of Chhattisgarh, but the petitioner failed to produce the documents to establish the fact that he is the member of *Dhangarh* ST of the State of Chhattisgarh. The petitioner has been found to be the member of *Gadhariya* caste which falls under the OBC category. According to the learned counsel, even the Vigilance Cell in its report opined that the petitioner's social status has not been shown to be *Dhangarh* ST of the State of Chhattisgarh. However, the Vigilance Cell has found the caste of the forefathers of the petitioners to be *Gadhariya*. Thus, the caste certificate of the petitioner has rightly been cancelled by the respondent No.2/Committee.

5. I have heard learned counsel for the parties and perusal the documents.
6. For the sake of convenience few dates and events are mentioned below, which are relevant for adjudication of the present case :

6-2-1982

The Circle Organizer Aadim Jati Kalyan, Raipur, had issued a caste certificate in favour of the petitioner certifying him belongs to Dhangad caste which falls under the category of ST.

10-12-1983

The petitioner was appointed with the Postal Department.

1-8-1992

Tahsildar issued the caste certificate in favour of petitioner

11-3-1999

Caste verification report submitted by the office of Collector

15-2-2000

Additional Collector in respect to query of Postal Department has issued letter stating that the verification report is genuine.

17-8-2012

Senior Superintendent, Post Office, Raipur, made a request to the Committee for verification of the case of petitioner.

17-12-2012

Committee send the matter for inquiry/investigation to Vigilance Cell.

30-3-2013

Earlier committee superseded and the new High Level Caste Scrutiny Committee was constituted by exercising the power under the Act, 2013.

24-6-2013

Committee asked the employer to get the information filled in Form by the petitioner.

2-7-2013

Form filled by the petitioner giving his detailed information

31-12-2013

Vigilance Cell submitted report before the Committee

6-2-2014

Show cause notice issued to the petitioner by the Committee

8-3-2014

Reply to the show cause notice submitted by the petitioner along with documents to the authority concerned seeking detailed enquiry and opportunity of hearing.

28-4-2014, 28-5-2014 and 28-6-2014

Dates fixed for hearing granting time to petitioner for producing documents.

9-1-2015

Order cancelling the caste certificate of the petitioner was passed by the Committee

7. From the aforesaid facts, it is quite vivid that on 17-8-2012 the Senior Superintendent, Post Office, Raipur, made a request to the Committee for verification of the petitioner's caste status and on 17-12-2012 the Committee send the matter for inquiry/investigation to the Vigilance Cell. Thereafter, on 30-3-2013 the earlier Committee superseded and the new High Level Caste Scrutiny Committee was constituted. From the order impugned, it appears that the proceedings were undertaken by the Committee under the Act, 2013. Hence, since the Committee has proceeded under the Act, 2013, it is bound to follow the procedure as provided under the Act, 2013 and the Rules, 2013.
8. For examination of the fact that whether the Committee has followed the procedure enumerated under the Act 2013 and the Rules, 2013 or not, it will be appropriate to quote the provisions of Sections 6, 7 and 15 of the Act, 2013 and the Rules 14 to 23 of the Rules, 2013 as under:-

Sections 6, 7 and 15 of the Act, 2013 :

6. District Level Certificates verification Committee and its powers.--(1) There shall be a District Level Certificates Verification Committee with such composition as may be prescribed for verification of Social Status Certificate issued by the Competent Authority under Section 4, as may be notified by the State Government having jurisdiction over one or more districts.

(2) A district Level Certificates Verification Committee shall on its own motion or on receipt of any information or reference made to it, in regard to Social Status Certificate(s) issued by the competent Authority, verify such Certificate(s) in the manner as may be prescribed:

Provided that the reference made to the District Level Certificates Verification Committee by an employer, an Educational Institution, a Local Authority, the Central Government or the State Government, as the case may be, for verification of Social Status Certificate(s), shall be in such form and in such manner as may be prescribed, and it shall be the duty of the District Certificates Verification Committee or report its findings to the employer, the Educational Institution, the Local Authority, the Central Government or the State Government, as the case may be, within a period of one month from the date of receipt of the reference.

(3) Where there is prima-facie reason to believe that the Social Status Certificate(s) have been wrongfully or fraudulently obtained, the District Level Certificates Verification Committee shall refer all information and relevant documents along with record of its findings to the High Power Certification Scrutiny Committee :

Provided that where the District Level Certificates Verification Committee arrives at an adverse finding, it shall not refer the case to High Power Certification Scrutiny Committee unless a reasonable opportunity of being heard is given to the person, whose Social Status Certificate is disputed.

(4) The District Level Certificates Verification Committee shall follow such procedure for verification of Social Status Certificates and adhere to such time limit for

reference to the High Power Certification Scrutiny Committee under sub-section (3) of this Section, as may be prescribed.

7. High Power Certification Scrutiny Committee.--

(1) The State Government shall constitute, by notification in the Official Gazette, one or more High Power Certification Scrutiny Committee or Committees, for conducting enquiry into Social Status Certificate(s) referred to it by District Level Certificates Verification Committee under Section 6 or by the State Government, and it shall be the duty of the High Power Certification Scrutiny Committee to examine the report of the District Level Certificates Verification Committee and to proceed in this matter as prescribed under Chapter IV of this Act.

(2) The High Power Certification Scrutiny Committee shall follow such procedure as may be prescribed:

Provided that where the High Power Certification Scrutiny Committee decides to arrive at an adverse finding, it shall not do so unless a reasonable opportunity of being heard is given to the person whose Social Status Certificate is disputed.

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15. Authorities under the Act to exercise powers of Civil Court.--The Competent Authority, Appellate Authority, District Level Certificate Verification Committee and the High Power Certificate Scrutiny Committee shall, while holding an enquiry under this Act, have the powers of a Civil Court under the Code of Civil Procedure, 1908 and particularly in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) the requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) such other matters as may be prescribed.

Rules 14 to 23 of the Rules, 2013 :

14. Constitution of District Level Certificates Verification Committee.--(1) The State Government shall constitute District Level Certificates Verification Committee having jurisdiction over one or more districts, for the verification of certificates issued by the Competent Authority, as under:-

(a) Additional Collector or Deputy Collector posted at District Headquarters, nominated by Collector, - Chairman

(b) One Officer not below the rank of Class II belonging to Scheduled Tribe, nominated by Collector, -Member

(c) One Officer not below the rank of Class II, belonging to Scheduled Caste, nominated by Collector, -Member

(d) One Officer not below the rank of Class II, belonging to Other Backward Class, nominated by Collector, -Member

(e) A subject expert officer or Class III executive employee, nominated by Director, Tribal Research and Training Institute; -Member

(f) Assistant Commissioner, Scheduled Tribe and Scheduled Caste Development Department.- Member Secretary

(2) In case on the post of Subject Expert Officer or Class III executive employee, an appropriate officer or employee is not available for the Verification Committee then the Director, Tribal Research and Training Centre Institute, Raipur may appoint any retired officer or a Class III executive employee as member. -Member-Secretary

(3) For the nominated retired Subject Expert Officer or Class III executive employee in the Verification Committee, honorarium shall be determined by the State Government.

(4) Meetings of the Verification Committee, as required shall be held on a fixed day, every week:

But the meeting of the Committee may also be convened on the direction of Chairman on a short notice of one day.

15. Verification of Certificate and reference to Verification Committee.--(1) If the concerned public employer, educational institution or a statutory body the

State Government or the Central Government, as the case may be, receives a complaint or raises a doubt that the person appointed, admitted, elected, named or nominated has obtained Certificate wrongly or fraudulently then he/it shall ask such person to file an affidavit in FORM-2B and shall refer the matter to the Verification Committee in FORM-1B.

(2) Verification Committee shall verify about 10% of the total number of Certificates issued by the Competent Authority, as sample inquiry through random sampling method. The Applicant shall not be at liberty to seek information from the Verification Committee as to why his certificate has been selected for verification.

(3) Verification Committee may direct any Applicant to submit application in FORM-1C along with affidavit in FORM-2C and shall exhibit such document as required under sub-rule (3) of Rule 3, necessary to verify his social status,

(4) A Non-Applicant, instead of referring a certificate to the Verification Committee may also direct the Applicant to get his certificate verified by the Verification Committee. In such cases the Applicant shall submit his original certificate, an application in FORM-1C along with affidavit in FORM-2C and document as required under sub-rule (3) of Rule 3.

(5) In case of direction from Verification Committee under sub-rule (3) or direction from Non-Applicant under sub-rule (4) to verifying Certificate from the Verification Committee, the Applicant shall be bound to submit the application as mentioned above along with affidavit and documents as required under sub-rule (3) of Rule 3 within a period of not more than a month, failing which the committee may decide ex-parte and Certificate of such Applicant shall be forwarded under Rule 18 to Scrutiny Committee:

Provided that where applicant satisfies the Verification Committee that application, affidavit and other documents could not be submitted within prescribed time limit of one month, due to adequate reasons, the Verification Committee may extend the time for the verification of certificate of the applicant.

16. Registration of application by the Verification Committee.--(1) Verification Committee shall register the applications for verification received from Applicant or Non-Applicant in a register as prescribe in the FORM-5D.

(2) Verification Committee shall send receipt in FORM-3D to the Applicant or Non-Applicant, as the case may be, within 7 days of the receipt of application.

17. Verification of Certificate by Verification Committee.--(1) The Verification Committee on being satisfied with the application and documentary evidence annexed therewith shall issue verification certificate in FORM-4D(1) to Scheduled Castes, in FORM-4D(2) to Scheduled Tribes and in FORM-4D(3) to Other Backward Classes to the Applicant, his guardian or Non-Applicant, as the case may be, within a period of not more than one month:

Provided that if the Applicant, his guardian or Non-Applicant, as the case may be, requests to send the same by post, the committee may send the same by registered post.

(2) Verification Committee shall maintain details of the verified Certificates in FORM-5E.

(18) Procedure where Verification Committee is not satisfied with the documentary evidence.--(1) Where the Verification Committee is not satisfied with the documentary evidence annexed with Application, it may, within fifteen days from the date of receipt of application or within fifteen days of reference by Non-Applicant shall inform the Applicant or Non-Applicant, if any, stating the reasons of non-satisfaction thereby and shall give the Applicant, any opportunity to be heard:

Provided that the Verification Committee shall complete hearings in not more than three months and in case where the Committee is of opinion that the Certificate seems to have been obtained wrongly or fraudulently it shall forward the original certificate along with relevant documents and its findings to the Scrutiny Committee for inquiry under Rule 20 and shall also inform the Applicant and Non-Applicant, if any.

(2) Verification Committee shall maintain details of forwarded certificates to the Scrutiny Committee in FORM-5F

19. Registration of the Cases by High Power Certification Scrutiny Committee.--(1) The Higher Power Certification Scrutiny Committee shall register the referred cases by Verification Committee or by the State Government or by the State Government in FORM-5G.

20. Inquiry of the Case through Vigilance Cell.--(1) The Scrutiny Committee shall forward the Certificate and copies of all relevant documents in cases referred to it by Verification Committee or by the State Government or any other authority in FORM-6A to the Vigilance Cell constituted under Deputy Superintendent of Police;

(2) The Deputy Superintendent of Police through subordinate Police Inspector shall inquire into the case and inform Scrutiny Committee accordingly;

(3) Police Inspector of Vigilance Cell shall-

(a) search places of local residence, domicile and general residence of Applicant or the city, town or village of his origin before migration;

(b) ascertain the truth regarding the Social Status as claimed by the Applicant or his parents or his Guardian, as the case may be, on the basis of public documents;

(c) verify the information stated in the application submitted to Verification Committee by the Applicant on the basis of relevant public documents and reliable private documents;

(d) obtain information from Village Kotwar, Village Sarpanch, Halka Patwari, Local Ward Member, Other Public Representatives, Local Gazetted Officers, such local members already having a Certificate and who are knowing well the Applicant and if any of them agrees to record his oral statement then he shall record his statement accordingly or shall request important witnesses to give their statement on oath and in case they agree, shall obtain the affidavit accordingly and give a copy of the same to the witness concerned;

(e) give an opportunity to the Applicant himself and parents of the Applicant and shall record the statement of witnesses indicated by them or shall obtain their affidavits;

(f) if during the examination it is found that the Applicant or any other person has maliciously forged the document, after getting the photocopy of the relevant pages, seize the document with the help of local police and shall seal and send the document to Deputy Superintendent of Police of Vigilance Cell and shall give a receipt and copy, to the authorities having custody of the documents;

(g) submit his report along with all documents to the Deputy Superintendent of Police after completing the investigation.

(4) Deputy Superintendent of Police, after obtaining necessary permission of the Scrutiny Committee shall send the document seized by the Police Inspector for forensic test and to handwriting expert along with appropriate noting.

(5) The Deputy Superintendent of Police shall submit the Inquiry Report containing his clear opinion regarding social status of the Applicant, along with documents received from Police Inspector and conclusions of forensic and handwriting expert to the Scrutiny Committee.

(6) The Scrutiny Committee shall examine such report and in case it finds any deficiency in the report shall revert the same to the Vigilance Cell after indicating such deficiency and may direct for inquiry on specific issues.

(7) Police Inspector and Deputy Superintendent of Police shall maintain details of above mentioned investigation of the cases in FORM-5H.

21. Action on the Report of Vigilance Cell.--(1) If in the Inquiry Report of Vigilance Cell, claims regarding social status of the Applicant has been reported as just and proper then there shall be no further action needed by the Scrutiny Committee and it shall intimate accordingly to the concerned Verification Committee or the State Government, as the case may be, and to the Applicant.

(2) If the matter is referred by the State Government, the case shall be filed/closed at the State Government level with intimation to the Applicant and if the matter has been referred by the Verification Committee, then the Verification Committee after due verification in the manner provided under Rule 17 shall send the Original and Verified Certificate to the Applicant or Non-Applicant, as the case may be.

22. Inquiry by High Power Certification Scrutiny Committee.--(1) Where the Scrutiny Committee is not satisfied with the social status claim of the Applicant, according to the inquiry Report of the Vigilance Cell the committee may through registered post shall issue a show-cause notice to Applicant in prescribed FORM-6B along with report of the Vigilance Cell and the copy of such notice shall also be given to the Non-Applicant (if any) also.

(2) After receiving the reply of the Applicant, the Scrutiny Committee shall convene a meeting wherein it shall direct the Applicant to produce his/her Certificate in original and Applicant shall be given adequate opportunity of hearing and producing evidence.

(3) The Scrutiny Committee shall also issue a public notice regarding the hearing, which shall be widely publicized in the village or announced by beat of drum, advertisement or through some other convenient means, so that any person or institution may support or oppose the applicant's claim and such person or institution shall also be accorded an opportunity of hearing and producing evidence, if any.

(4) After giving reasonable opportunity of hearing to the Applicant or to his guardian (in case the applicant is not an adult), Scrutiny Committee may conduct such inquiry, so as to consider the claim and other objections.

(5) Scrutiny Committee may send the notice or summons for service to the Teshildar, Additional Tehsildar, Nayab Tehsildar, who shall serve the notice in the manner as directed in FORM-6C.

23. Decision of the Scrutiny Committee and proceedings thereafter.

--(1) After hearing both the sides in support and against the claim, the Scrutiny Committee on being satisfied with regarding the genuineness of the claim of the Applicant shall direct, the concerned Verification Committee to issue Verification Certificate, if applied so.

(2) If after hearing the Applicant regarding his claim of Social Status Certificate the Scrutiny Committee, comes to the conclusion that the claim of the Applicant is not genuine, it may pass a reasoned order and cancel the Certificate.

(3) The Scrutiny Committee while passing order under sub-rule (2) shall authorise an officer of the employer, educational institution, local authority, the Central Government or the State Government to file complaint under sub-section (2) of Section 10 of the Act and forward attested copies of all documents related to the case to such officer for further proceedings.

(4) The Scrutiny Committee while passing order under sub-rule (2) of this Rule shall issue instruction to the concerned Collector to investigate, whether the Competent Authority knowingly or having knowledge that such certificate was false has issued such False Social Status Certificate or any other person has abetted such offence and Collector shall forward his report to the State Government, within three months.

(5) The Scrutiny Committee after passing the order of cancellation of False Social Status Certificate shall confiscate it and details shall be entered in the register as prescribed in FORM-5I and such Certificate shall be impressed as "Cancelled and Confiscated".

(6) Copies of the order passed by the Scrutiny Committee shall be sent to the Non-Applicant, if any, and to the Applicant by registered post immediately after passing such order. If the Applicant or any other person present in the office demands copy of the order, the same shall be supplied to the person on payment of appropriate fee.

9. Section 6(2) of the Act, 2013 provides that a District Level Certificates Verification Committee shall on its own motion or on receipt of any information or reference made to it, in regard to Social Status Certificate(s) issued by the competent Authority, verify such Certificate(s) in the manner as may be prescribed therein, but in the present case, the Committee entertained the request/complaint of the employer and proceeded under the Act, 2013 to verify the caste status of the petitioner.

10. In the matter of **Vidya Kumbhare**(supra), the co-ordinate Bench of this Court held thus at paras 22 and 23 :

22. What is also to be taken note of is the fact that the entire impugned order seems to have been passed invoking the provisions of the Act, 2013. The aforesaid Act, 2013 does not empower the High Powered Caste Scrutiny Committee to directly entertain a complaint and take cognizance and conduct an enquiry.....

23. The plain reading of the impugned order Annexure P/1 dated 07.09.2019 particularly paragraph 2 would clearly indicate that the entire dispute arose on a complaint directly being made to the respondent No.2-The High Powered Caste Scrutiny Committee. The Committee has taken cognizance of that complaint, proceeded and registered a case, which in the opinion of this court is not permissible under the aforesaid two provisions of law i.e. Section 6 or Section 7 of the Act, 2013.....

11. In the aforesaid decision, it has been observed that the Act, 2013 does not empower the High Powered Caste Scrutiny Committee to directly entertain a complaint and take cognizance and conduct an enquiry. In the present case, the Committee entertained the request of the employer and proceeded which is contrary to the Act, 2013 and even the proceeding drawn by the Committee on the request of the employer is bad in law.

12. From bare perusal of the proceeding drawn by the Committee, it appears that it has proceeded under the scheme/procedure prescribed pursuant to the

decision rendered by the Supreme Court in the matter of *Madhuri Patil* (supra), whereas the Supreme Court in the matter of *Dayaram v Subhir Batham and Ors*⁶ held that the entire scheme in *Madhuri Patil* (supra) will only continue till the concerned legislature makes appropriate legislation in regard to verification of claims for caste status as SC/ST. In the case at hand, the proceeding has been drawn and the verification of the caste status of the petitioner has been made under the scheme and guidelines issued in *Madhuri Patil* (supra) albeit the Act, 2013 came into existence and a new committee for verification of caste certificate has been constituted on 30-3-2013. Thus, the entire proceedings drawn by the respondent No.2/Committee is vitiated under the law.

13. From the impugned order, it seems that the Committee has passed the order by invoking the provisions of the Act, 2013. In fact, the same does not empower the Committee to directly entertain a complaint and take cognizance and conduct an enquiry. Further plain reading of the order impugned would clearly indicate that the entire dispute arose on a complaint directly being made to the Committee. The Committee has taken cognizance of that complaint, proceeded and registered a case, which in the opinion of this Court is not permissible as provided under Sections 6 & 7 of the Act, 2013.
14. In respect of the contention of the petitioner that the nature of enquiry as directed by the Supreme Court and the Act, 2013 is quasi judicial in nature and the Committee is obliged to comply is concerned, the Supreme Court in

⁶ (2012) 1 SCC 333

the matter of *Mah. Adiwasi Thakur Jamat Swarakshan Samiti* (supra)

held thus at para 28 :

28. We must note here that this Court was dealing in the said decision with a case arising from the State of Madhya Pradesh where there was no statute in existence which covered the field occupied by Kumari Madhuri Patil's case. Therefore, the observations made in the said decision are in the context of powers of the Scrutiny Committee ordered to be created under the decision in the case of Kumari Madhuri Patil. In the cases of Dayaram and Jay Chitra, this Court has not dealt with the 2000 Act or a similar enactment applicable to any other State. On a conjoint reading of the 2000 Act as well as ST and SC Rules framed thereunder, it is impossible to conclude that the Scrutiny Committee discharges only administrative functions. The Scrutiny Committee under the 2000 Act has been entrusted with various powers of the Civil Court under the Code of Civil Procedure, 1908. The powers include a power to enforce the attendance of any witness, to receive evidence on affidavits, to issue commissions for the examination of witnesses or documents etc. The scheme of the 2000 Act and both SC and ST Rules provides for the Scrutiny Committee holding an enquiry on the caste claim of the applicant, if necessary, after examining the applicant on oath, recording evidence of witnesses and calling for documents and records etc. The Scrutiny Committee is expected to record reasons for granting and rejecting the prayer for issue of caste validity certificates. Thus, the Scrutiny Committee has all the trappings of a quasi-judicial authority.

15. The coordinate Bench of this Court in the matter of *Premal Das Baghel*

(supra) held thus at paras 13 & 14 :

13. In the case of State of Maharashtra and others v Ravi Prakash Babulalsing Parmar and another, 2007(1) SCC 80, their lordships in the Supreme Court, while examining the role and functions required to be discharged by the Caste Scrutiny Committee, held in no uncertain words that the nature of duties and functions discharged by the Caste Scrutiny Committee are quasi judicial in nature.

14. For aforesaid reasons, the Caste Scrutiny Committee has to function as a quasi-judicial body which necessitated not only following an orderly procedure consistent with the principles (*sic* principal) of natural justice requiring it to disclose each and every material collected by it to the person

against whom the enquiry is being held but also to duly apply its mind and assess oral and documentary evidence led before it by the person concerned.

16. It is pertinent to mention here that the order impugned has been passed in complete violation of the Rules 20, 21, 22 & 23 of the Rules, 2013 because neither enquiry as envisaged has been conducted nor the vigilance report is in conformity with the legislative mandate. The order cannot be passed solely relying on the report vigilance enquiry as the said enquiry conducted itself is in violation of guidelines prescribed by the Supreme Court. Even the principles of natural justice are violated and no opportunity to lead evidence and cross-examine any witness is provided.
17. The order passed by the Committee, therefore, suffers from violation of principle of natural justice and serious jurisdictional flaw that it illegally exercised its jurisdiction in passing the impugned order against the petitioner without considering the document submitted by the petitioner in his defence. The meaning of providing a reasonable opportunity to show cause against an action proposed to be taken by the Government, is that the Government servant is afforded a reasonable opportunity to defend himself against the charges, on the basis of which an inquiry is held. The Government servant should be given an opportunity to deny his guilt and establish his innocence. He can do so by cross-examining the witnesses produced against him. The object of supplying statements is that, the Government servant will be able to refer to the previous statements of the witnesses proposed to be examined against him. Unless the said statements are provided to the Government servant, he will not be able to conduct an effective and useful cross-examination.

18. The aforesaid discussion makes it evident that, not only should the opportunity of cross-examination be made available, but it should be one of effective cross-examination, so as to meet the requirement of the principles of natural justice. In absence of such an opportunity, it cannot be held that the matter has been decided in accordance with law, as cross-examination is an integral part and parcel of the principles of natural justice.
19. Section 15 of the Act, 2013 speaks about the authorities under the Act to exercise the power of Civil Court, which provides that while holding an enquiry under this Act, have the powers of a Civil Court under the Code of Civil Procedure, 1908 and particularly in respect of the matters namely; (a) summoning and enforcing the attendance of any witness and examining him on oath; and (b) the discovery and production of any document. From perusal of the proceedings drawn by the Committee, it is evident that on the basis of vigilance report the opinion has been given by the Committee and no opportunity of cross-examination has been afforded to the petitioner and, as such, the petitioner has been deprived from the principles of natural justice and particularly Rule 20 of the Rules, 2013 which prescribed as to how the vigilance cell shall enquire into caste certificate has not been followed.
20. Applying the well settled principles of law to the facts of the present case and for the reasons mentioned hereinabove, it is crystal clear that the respondent No.2/Committee has not followed the directions/guidelines of the Supreme Court as also not followed the Act, 2013 and the Rules, 2013, in its true perspective, while verification of the caste certificate of the petitioner, the impugned order dated 9-1-2015, which has been

communicated to the petitioner on 28-4-2015, is quashed and the matter is remitted back to the respondent No.2/Committee to verify the caste certificate of the petitioner, as per the guidelines of the Supreme Court and as per the Act, 2013 and Rules, 2013, within a period of six months from the date of receipt of copy of this order.

21. As an upshot, the writ petition is allowed to the extent indicated above, leaving the parties to bear their own cost(s).

Sd/-

(Bibhu Datta Guru)
Judge

Gowri

WPC No.884 of 2015Head Note

The Caste Scrutiny Committee has to function as a quasi-judicial authority, which necessitated not only to follow the principles of natural justice, but also to disclose each and every material collected by it to the person against whom the enquiry is being held.

जाति छानबिन समिति को अर्द्ध न्यायिक प्राधिकरण के समान कार्य करना होता है, जिसके लिए न केवल प्राकृतिक न्याय के सिद्धांतों का पालन करना आवश्यक है बल्कि एकत्रित किये गये प्रत्येक तथ्यों को भी उस व्यक्ति को प्रकट करना जरूरी है, जिसके विरुद्ध जाँच चल रही है।