

THE HIGH COURT OF MADHYA PRADESH
Writ Petition No.5340/2015
(Smt.Geeta Batham Vs. State of M.P. and others)
(1)

Jabalpur, dated : 15.12.2021

Shri Manoj Sharma, Advocate for the petitioner.

Smt.Aishwarya Singh, Panel Lawyer for the respondents/State.

Heard finally with the consent of both the parties.

In this petition under Article 226 of the Constitution of India, the petitioner has called in question the legality, validity and propriety of the impugned order dated 9.1.2015 (annexure P/1) passed by the Caste Scrutiny Committee in Case No.502/2009 wherein the Committee has recommended for cancellation of the Caste certificate of the petitioner who belongs to "keer" community de hors the material available before the Committee.

Brief facts leading to filing of the present petition are that the petitioner was working on the post of Section Officer in the respondent no.3 Department. Petitioner belongs to the "keer" community which is a Scheduled Tribe community. Father of the petitioner also belongs to "keer" community. Father of the petitioner was illiterate and he was working as a Peon in the Health Department at Vallabh Bhawan, Bhopal. The Caste certificate "keer community" was duly issued in favour of the petitioner vide order dated 10.6.1981 by the office of the Collector, from the department of Adim Jati Evam Anushuchit Janjati Kalyan, District Bhopal. Since inception the petitioner has been performing her duties, functions and responsibilities with utmost honesty, sincerity and to the entire satisfaction of the superior authorities. The petitioner has been superannuated on attaining the age of superannuation after rendering about 33 years of unblemished service.

The controversy arose in the year 2015 when the revenue department issued a letter dated 5.1.2015 regarding verification of the caste of the petitioner. Thereafter, the respondent no.2 issued a letter as to whether the certificate produced by the

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petitioner at the time of appointment is valid or not ? The matter was referred to the Caste Scrutiny Committee which has been constituted in the light of the Apex Court decision in the case of *Madhuri Patil Vs. State of Maharashtra, (1994)6 SCC 241.*

Learned counsel for the petitioner submitted that as per verdict in the case of Madhuri Patil (supra), the matter has to be initially investigated by the Superintendent of Police, Vigilance Cell, verifying the caste certificate on the basis of evidence collected and thereafter the same is required to be taken up before the Scrutiny Committee. In the present case, the S.P. has given its finding with regard to the caste certificate and found it to be genuine vide report dated 14.2.2012 (annexure P/3). A perusal of the annexure P/3 clearly indicates that the S.P. has specifically opined that the petitioner belongs to "keer" community. It is further submitted that according to the circular dated 8.9.1997, annexure P/4, specific procedure with regard to holding of the aforesaid enquiry has been provided.

A bare perusal of the same indicates that the matter ought to have been referred to the Vigilance Cell first and after detailed scrutiny by the Vigilance Cell, it was required to be placed before the Committee in a timebound manner. In para 2 of this circular it has been specifically stated that if the report of the Vigilance Cell is against the person concerned, an opportunity of hearing at that stage ought to have been given to the person concerned and in para 3 it is stated that if the report of the Vigilance Cell is in favour of the person concerned, then no further action is required to be taken.

Learned counsel further submitted that this procedure was adopted by the State Govt. in large number of cases by the State Govt. An example was also cited in respect of one Rajshri Batham, where the aforesaid procedure has been followed. According to the report, annexure P/5, the Scrutiny

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Committee did not investigate further. In the present case also as is clear from the Vigilance Cell dated 7.5.2008 (which is in favour of the petitioner) ought to have been closed. However, for the reasons best known to the Scrutiny Committee, the show cause notice dated 5.1.2015 was issued to the petitioner of which she filed a reply. However, the respondents proceeded with the matter despite the report of Vigilance Cell having found the caste certificate to be genuine. Vide impugned order dated 9.1.2015 the caste certificate of the petitioner "keer" community has been cancelled.

Learned counsel further submits that the said order has been passed without application of mind. Father of the petitioner also belongs to the "keer" community for which caste certificate has been issued to him as well.

Learned counsel also submits that there is no reason stated by the Caste Scrutiny Committee for conducting the second enquiry. Secondly, it is contended that the procedure as contemplated in para 13(6) in the case of Madhuri Patil (supra) have not been followed at all. Accordingly, it is prayed that the order impugned dated 9.1.2015 deserves to be set aside.

On the other hand, learned Panel Lawyer opposes the prayer and submitted that so far as the second enquiry is concerned, no reason was to be assigned inasmuch as the same was ordered by the Scrutiny Committee which has the power to conduct the same. Moreover, it is the responsibility of the petitioner to establish her caste with all the necessary documents and certificates.

The aforesaid view has been reiterated by the Apex court in the case of **Director, Tribal Welfare Vs.Laveti Giri, AIR 1995 SC 1506**. As per the order of the Caste Scrutiny Committee it is very clear that it had considered all the relevant aspects and materials before coming to the conclusion and passing the order which calls for no interference and the writ

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petition is liable to be dismissed.

Heard learned counsel for the parties and perused the record.

On perusal of the impugned order dated 9.1.2015 particularly para 4 reveals that the Superintendent of Police, Jabalpur, has categorically stated that the caste certificate no.212 dated 10.6.1981 found entry in the register maintained in the office of the District Co-ordinator, Adim Jati Kalyan, Bhopal. Further, according to annexure P/5, sister-in-law of the petitioner has been treated as belonging to the "keer" community. No reasons have been spelt out while directing the second enquiry by the Caste Scrutiny Committee. There was no reason to disbelieve the first report. Even after conducting the second enquiry, only show cause notice was issued to the petitioner. Further, the procedure laid down in para 13(6) in the case of Madhuri Patil (supra), has not been followed in the instant case. The aforesaid aspect was not considered by the Caste Scrutiny Committee. The impugned order dated 9.1.2015 has been passed on the basis of second report submitted by the Caste Scrutiny Committee. Admittedly, the petitioner has been superannuated after rendering 33 years of unblemished service. The Apex Court in the case of *State of Maharashtra Vs. Milind (2001)1 SCC 4* the held as under :-

"38. Respondent no. 1 joined the medical course for the year 1985- 86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practising as doctor. In this view and at this length of time it is for nobody's benefit to annul his Admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to respondent no. 1. If any action is taken against respondent no. 1, it may lead to depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree

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obtained by him and his practising as a doctor. But we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP (C) No. 16372/85 and other related affairs, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment.

In view of the aforesaid discussion, the impugned order dated 9.1.2015 deserves to be and is accordingly set aside. The caste certificate issued in favour of the petitioner on 10.6.1981 stands restored to its original number.

The petition is allowed and disposed of accordingly.

(S.A.Dharmadhikari)
Judge

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