

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

**WRIT PETITION No.26171 of 2018**

**Between:-**

**SANTRAM SARONIYA S/O SHRI BHAGWAN  
DAS @ BHAGGOO SARONIYA, AGE 50  
YEARS, OCCUPATION – ADHYAPAK R/O  
VILLAGE METHANA TEHSIL BHANDER,  
DISTT. DATIA (M.P.)**

**.....PETITIONER**

***(BY SHRI PRATIP VISORIYA – ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH THROUGH  
ITS PRINCIPAL SECRETARY,  
DEPARTMENT OF SCHEDULED CASTE  
AND WELFARE OF SCHEDULED TRIBE,  
VALLABH BHAWAN, BHOPAL (MADHYA  
PRADESH)**
- 2. STATE LEVEL CASTE SCRUTINY  
COMMITTEE OF SUSPICIOUS SCHEDULE  
CASTE CERTIFICATE THROUGH ITS  
COMMISSIONER RAJEEV GANDHI  
BHAWAN SHYAMLA HILLS BHOPAL.**

3. COLLECTOR, DATIA, DISTRICT DATIA (M.P.)
4. S.D.O. BHANDER, DISTRICT DATIA (M.P.)
5. TEHSILDAR BHANDER, DISTRICT DATIA (M.P.)
6. POLICE STATION BHANDER, DISTRICT DATIA (M.P) THROUGH ITS SHO
7. MAHENDRA BODDH S/O HARDAR BODDH, R/O CHHALLAPURA, DATIA, DISTRICT DATIA (M.P.)

**.....RESPONDENTS**

***(BY SHRI SANJAY SHARMA – GOVT. ADOVATE AND MS. AYUSHI VYAS – ADVOCATE FOR RESPONDENTS NO.7, 8, 9 AND 10)***

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Reserved on	18/01/2023
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Delivered on	13/03/2023
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*This petition coming on for hearing this day, Hon'ble Shri Justice Milind Ramesh Phadke passed the following:*

**ORDER**

1. The present Petition had been preferred being aggrieved by the order dated 18/09/2018 passed by State Level Caste Scrutiny Committee (shall be referred to as 'Committee'), by which instead of scrutinizing the caste certificate afresh, the

earlier order dated 08/06/2016 passed by it had been confirmed, on the ground that the order passed by the committee was illegal, as the caste of the Petitioner was not in dispute, the caste certificate issued by Mandal Coordinator issued in the year 1990 was not in dispute and the certificate issued by Sub-Divisional-Officer, Bhandar was also not in dispute, the only dispute was with regard to certificate which was issued by the Tehsildar, which had been declared to be forged on the ground that in revenue records the entry of aforesaid certificate does not exist, when during Police investigation Tehsildar had categorically admitted that the certificate was issued under his signature, thus, since the Petitioner was being victimized due to procedural lapses, the fault of which could not be attributed to the Petitioner, the present Petition was filed.

2. Brief facts of the case necessary for adjudication are that Petitioner, who belongs to Scheduled Caste, had procured a caste certificate from Mandal Coordinator in the year 1980. Later the power to issue caste certificate was given to Tehsildar and accordingly vide certificate dated 13/12/1994 Respondent No.5 issued the certificate. Again thereafter the competent authority for issuing the caste certificate changed from Tehsildar to Sub-Divisional-Officer and in pursuance thereof another certificate was issued to the Petitioner by Sub-Divisional-Officer, Bhandar.

3. The Petitioner in the year 2001 was appointed as Samvida Shala Shikshak, Grade – II and was later absorbed as Adyapak and since Petitioner was at S. No. 5 of the waiting list he was appointed under unreserved category and later the Petitioner got elected as member of Zila Panchayat, Gwalior. A complaint was made by Respondent No.7 with regard to Petitioner possessing false caste certificate as he was resident of Uttar Pradesh, on the basis of which inquiry was initiated by Tehsildar and it was found that there was no entry of the certificate in the revenue records. Since the allegations were that the Petitioner was resident of Uttar Pradesh, inquiry was also conducted by Tehsildar Jhansi, who submitted report that the Petitioner is not resident of Gram Bareta, U.P. as he had shifted to somewhere in Madhya Pradesh, but his father, brother and other family members are living at gram Bareta, U.P. and their caste is Chamar.

4. Prior to that on 05/02/2016 caste scrutiny committee called report from S.P. Datia. In pursuance thereof Dy. Superintendent of Police, AJAK, Datia, was directed to verify the certificate and the serial status of the petitioner, wherein after inquiry it was found that the caste certificate issued in the year 1980, was issued by Mandal Sanyojak, Adim Jati and Harijan Kalyan, Bhandar, District Gwalior and on Serial no. 221B/21/13-14 by Tehsil Bhandar and the certificate of brother

of the Petitioner Nandlal, was issued by Additional Collector, Gwalior in the year 1981 and Tehsil Bhandar in the year 1995, which were found to be legal. It was further reported that Petitioner belongs to SC and prior to 1950 he is living in Maythana Pali Tehsil Bhandar, which was endorsed by certificate of Janpad Panchayat, panchnana and affidavits and thereafter he started living in gram Taidot, Datia. It was also reported that the Petitioner had got the appointment as Samvida Shala Shikshak, Grade-II on the basis of merits under unreserved category and had not used the certificate or had taken advantage of reservation and he belongs to Jatav Community, which comes under Scheduled Caste.

5. In the meanwhile on 03/05/2016 Collector sent representation to National Commission for Scheduled Caste, New Delhi that the certificate issued to the Petitioner is not registered in the revenue register for the period 1994-95, which was based upon a letter dated 03/05/2016 issued by Sub-Divisional-Officer and on the basis of the that letter CEO, Jila Panchayat, Datia wrote a letter to CEO, Janpad Panchayat, Bhandar dated 12/05/2016 to take action for termination of the Petitioner and registering FIR against him for acquiring Government appointment on the basis of forged caste certificate.

6. The Petitioner challenged the order dated 03/05/2016 in

Writ Petition no. 3554/2016 before this Court and vide order dated 23/05/2016 Coordinate Bench of this Court was pleased to grant interim relief of no coercive action against him. Thereafter on 20/05/2016 the Petitioner was called for hearing before the State level Scheduled Caste Scrutiny Committee on 08/06/2016. The Petitioner in pursuance to the letter dated 12/05/2016 submitted his reply on 26/05/2016, but without any further inquiry the Committee passed the order of cancellation of caste certificate, which was again challenged by the Petitioner in Writ Petition No. 246/2017, whereby vide order dated 15/03/2018 the order passed by the Committee was set aside and the matter was remanded to the Committee for fresh adjudication in the light of the circulars of the State Government. On the same date i.e. 15/03/2018 the W.P. 3554/2016 was also disposed of and the order dated 03/05/2016 was set aside and the Collector was directed to take an action consequent to the report of High Level Caste Scrutiny Committee. Again on 04/09/2018 notice was issued to the Petitioner, who submitted his reply on 18/09/2018. The High Power Committee also called report from Superintendent of Police, Datia, which was submitted by the Dy. Superintendent of Police AJAK, Datia on 17/07/2018, on the similar lines as that to the earlier report dated 05/02/2016 and submitted that the caste certificate of the Petitioner was genuine and valid,

with a further stipulation that only on the basis of no record available with the Collector, the certificate could not be held to be forged. But without considering the reply and the report of the Police, the impugned order was passed. Hence this Petition.

7. Learned Counsel for the Petition vehemently argued that the Caste Scrutiny Committee constituted in the light of **Madhuri Patil case reported in AIR 1995 SC 94**, is having the power only to examine the social status claim of the person, but in the present case social status of the Petitioner is not in dispute, therefore, the Caste Scrutiny Committee had not power to conduct the inquiry. It was further argued that similar view had been taken by the Hon'ble Supreme Court in the matter of *Daytaram Vs. Sudhir Batham* reported in 2012(1) SCC 333, wherein it is held that scrutiny committee can verify the certificate which is issued without scrutiny and if the certificate has been issued with proper inquiry then committee has no power to conduct the inquiry. It was further argued that if the report of the vigilance officer is in the favour of a candidate then proceedings are required to be dropped, as had been held in the *Madhuri Patil's* case (supra) and since the report dated 17/07/2018 (appended along with the letter dated 20/07/2018) was in favour of the Petitioner, the proceedings should have been dropped.

8. The Counsel for the Petitioner also submitted that a new

caste certificate had been issued by the Sub-Divisional-Officer in the year 2014, goes to show that the claim of the Petitioner of belonging to Schedules caste is not under dispute. It was further argued with vehemence that the remand order 15/03/2018 passed by this Court in W.P. No. 246/2017 was to take a fresh decision in the light of circular dated 27/07/2017, wherein under clause 2 there is a specific mention that under the circular of GAD dated 18/01/1962 any Gazetted Officer, Tehsildar, Forest Ranger were authorized to issue caste certificates and vide circular dated 10/04/1975 the certificates issued by even the Ministers were acceptable. Further vide circular dated 26/07/1984 even Nayab Tehsildar was also authorized to issue such certificates and later vide circular dated 26/05/1987 following officers were authorized:

1. Collector/Additional Collector/Deputy Collector / SDO/ Sub-Divisional-Magistrate/City Magistrate.
2. Tehsildar.
3. Nayab Tehsildar.
4. Project Administrator/Officer Integrated Tribal Development Project

And in clause 3 there is further mention of the fact that when those officers were authorized to issue the caste certificates at that time there was neither any necessity for moving an



application nor there was some sort of format nor any record was required to be kept. In clause 4 there is a mention that vide circular dated 18/07/1996 it was cleared that once a caste certificate is issued it would be acceptable to all the departments, Corporations and Societies and the persons who would unnecessarily harass any person possessing such caste certificate would be suspended and punished. Lastly in para 5 it is mentioned that the certificates issued prior to 1996, would be still valid and those certificates would not be declared forged only on the basis that Collector is not having its record, thus, the High Power Caste Scrutiny Committee, who was directed to scrutinize the certificate on the basis of the circular dated 27/07/2017, but without adhering to the directions and deciding the issue in view of the circular had passed the order, which is bad in law.

9. Further while placing reliance on the decision of Hon'ble Supreme Court in the matter of **Ayub Khan Noorkhan Pathan Vs. State of Maharashtra reported in (2013) 4 SCC 465**, it was contended that while conducting inquiry evidence is required to be recorded, opportunity to lead evidence and cross examination is required to be given but in the present matter no such opportunity was given and immediately after filing of reply on 18/09/2018 the order was passed which is vitiated.

10. Thus, on the strength of the above submissions it was

contended that though the authority who had issued the certificate was not held to be incompetent rather during the investigation in the criminal case registered against the Petitioner, tehsildar had specifically stated that he had issued the certificate, which bears his seal and signatures and later even the Police submitted its closure report finding the certificate not to be forged, therefore, only on the basis of no entry of the said document in the records it had been held the basis of passing of the impugned order by the Collector which is perse illegal and deserves to be set aside.

11. *Per Contra* learned Government Advocate submitted that in the light of the decision of this Court in W.P. No. 8452/2018 directions were issued to the High Power Caste Scrutiny Committee to reconsider the caste certificate which was cancelled by it vide order dated 08/06/2016 and in pursuance thereof the matter was minutely scrutinized the matter in the light of circular dated 27<sup>th</sup> of July, 2017 and the earlier letter dated 03-04/05/2016 issued by Collector, Datia was against re-perused and found that Collector, Datia had not written that caste certificate issued to the Petitioner was not available in the record rather it was mentioned Sub-Divisional-Officer, who had verified the certificate had found that there is no entry of that certificate in the revenue caste record, thus, the certificate is forged one and on its basis since the Petitioner had secured

appointment, CEO, Jila Panchayat, Datia, District Education Officer, Datia and CEO, Janpad Panchyat, Bhandar were directed to lodge F.I.R. against the Petitioner and take action to remove him from service, thus, it was found that the case of the Petitioner doesn't fall under the purview of the GAD circular dated 27<sup>th</sup> of July, 2017 and there was not legal entry of the certificate in the records.

12. It was further submitted by the learned Counsel for the State that admission of Tehsildar issuing the certificate during investigation by Police in the criminal case cannot be accepted as a gospel truth as there is no entry of the said certificate in the records i.e. Dayrapanji and since the certificate was not issued in accordance with rules and norms prescribed for issuance of such certificate, it cannot be said to have been issued by him in capacity of Tehsildar. It was also submitted that submission of new caste certificate issued to the Petitioner and that too of Dohor caste, would not make the earlier one genuine as it was of Jatav caste, thus, he submitted that the impugned order is wholly justified and no interference is required in the matter.

13. Heard the Counsel for the parties at length and perused the record.

### **DISCUSSION**

14. The bone of contention of the petitioner in the present matter is that when report of Vigilance Officer was in favour of

the petitioner, it was no more open to the Caste Verification Committee to proceed further and decide the question of caste status of the petitioner. The argument is advanced on the basis of judgment of Supreme Court in the case of Madhuri Patil (supra). It was followed in the case of Dayaram (supra). Great emphasis was laid to para 13(5) of the judgment of Madhuri Patil (supra). This para reads as under:

“13(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.”

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 produced or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

As per Para 13(5), the Vigilance Officer is required to conduct an inquiry in following manner:

- (i) Inspector would go to local place of residence of the claimant;
- (ii) He shall visit the original place;
- (iii) The Inspector shall visit the town from which the claimant originally hails from;
- (iv) He shall personally verify the school record, birth register;
- (v) He shall examine the parents/guardians and such other persons from whom information can be gathered;
- (vi) The said officer shall in particular examine the trade, deity, ritual, custom, mode of marriage, death ceremonies and method of burial of claimant's community.

This is the method prescribed in Kumari Madhuri Patil's case with a view to trace the anthropological and ethnological history of the claimant.

In para 13(7) the Apex Court held as under:

“13(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.”

In para 13(7) aforesaid it has been held that 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 reports of the members given are procured and found to be fraudulently obtained. The conjoint reading of paras 13(5) and 13(7) would show that the authority is required to conduct an enquiry as per the method and manner prescribed in aforesaid para and collect evidence in the same manner. The report should be prepared on the basis of aforesaid material. The Caste Verification Committee is required to apply its mind on the genuineness and correctness of the report. A microscopic reading of para 13(7) of the judgment would show that when the report is found to be genuine and true then only no further action need be taken by the committee. However, while examining genuineness or trueness of the said report, needless to mention that the committee is to be guided by para 13(5) of the said judgment. In other words, it is obligatory on the part of the S.P. to conduct an enquiry in a manner prescribed in para 5 of the judgment in Kumari Madhuri Patil. Thus, the basic question is whether the aforesaid reports of vigilance officer were prepared in consonance with para 13(5) and whether the committee has

erred in proceeding further despite favourable reports.

15. In the present case, the report of Superintendent of Police dated 20.07.2018, which contains the reference of an inquiry conducted by Dy. Superintendent of Police, AJAK, Datia shows that the certificate in the year 1980 was issued by Mandal Coordinator, Adim Jati and Harijan Kalyan, Bhandar and by Tehsil, Bhandar at serial no. 221/21/13-14 and the certificate of brother of the Petitioner was issued by Additional Collector, Gwalior in the year 1981 and that by Tehsil in the year 1995, which were legally issued. It is mentioned in the report that Petitioner belongs to scheduled caste and prior to 1950 he is residing in gram Maythana, Tehsil Bhandar and thereafter he started residing at gram Taidot, Datia and the Petitioner is resident of gram Maythana prior to 1950 was duly verified by Gram Panchayat Pali, Janpad Panchayat Bhandar, panchnama and affidavits. His resident status was further verified from the admission register, scholar register and his admission in the hostel and further it was also verified that he used to get scholarship. The service record of the petitioner was also got verified and it was found that the Petitioner had got appointment on an unreserved seat on the basis of merits and he not used the certificate for seeking appointment. Further family back ground was also checked and it was found that father and grand father of the petitioner were illiterate and his brother

Nandlal was elected as a legislator in the year 1977 from Sironiya constituency and the format for validity of the certificate prescribed for had been complied with. On the strength of these documents, he opined that the petitioner belongs to Jatav community. If this report is tested on the anvil of Para 13(5) of the judgment of Madhuri Patil, it will be clear that the Vigilance report fulfils the condition No.(i) to (v) mentioned above.

16. As analyzed above, if report of Vigilance Officer is true and genuine, it is binding on the Caste Verification Committee. The genuineness and trueness needs to be tested by examining the manner and method by which report has been prepared. As a thumb rule, it cannot be said that even cryptic report of Vigilance Officer is binding on the Caste Verification Committee. If report is not prepared in consonance with the mandate of Para 13(5) of the judgment of Madhuri Patil (*supra*), it is open to the Caste Verification Committee to proceed further and decide the caste status of the candidate on merits. This view is taken by this Court in 2012 (3) MPLJ 199 (Rajendra Singh Saluja Vs. State of M.P. and others).

17. As noticed, in the present case, the Vigilance Officer's report is by and large in consonance with the law laid down in the case of Madhuri Patil (*supra*). Thus, the said report was binding on the Caste Verification Committee. The Caste



Verification Committee, without assigning any reason as to why the report of Vigilance Officer/Superintendent of Police did not suit it, proceeded further and committed an error in taking a different view.

18. This Court in the case of **Gokul Prasad Vs. State Level Committee, (2012) 1 MPLJ 359** held that the proceedings and findings of Caste Verification Committee are quasi-judicial in nature. The action of obtaining a false certificate is not only a fraud on the society, it is fraud played on the Constitution as well. The consequence of cancellation of caste certificate of a candidate may be drastic. It may lead to civil and criminal consequences. He may lose his employment, occupation or admission, as the case may be, which was obtained on the basis of aforesaid caste status. Therefore, it is necessary that these matters are dealt with carefully by adopting a fair and transparent procedure by the Caste Verification Committee.

19. In the present case, the Caste Verification Committee has not given any reason whatsoever for not accepting the report of the Superintendent of Police. The Committee prepared a cryptic report by assigning following reasons:

“That in the report dated 3-4/05/2016 Sub-Divisional-Officer, Bhandar had certified that the certificate issued to the Petitioner is not recorded in the Revenue records and he had obtained appointment on the basis of a forged certificate, for

which letter had been written to the Chief Executive Officer, Datia, District Education Officer, Datia and Chief Executive Officer, Janpad Panchayat, Bhandar to initiate action against the Petitioner for getting a F.I.R. registered against him and drawing proceedings for removal of the Petitioner from service including recovery”, which appears to be not appropriate as the report of the Sub-Divisional-Officer, Bhandar was only on the basis that there was no entry of the certificate in the revenue records and against the record that the Petitioner had secured appointment on the basis of caste certificate, whereas from the report of the Deputy Superintendent of Police, AJAK dated 17/07/2018, there is no speck of hesitation left that the findings arrived at by the Caste Scrutiny Committee is per se illegal and de hors the directives of the Hon’ble Apex Court in Madhuri Patil’s case (supra).

20. In the light of aforesaid analysis, I have no scintilla of reservation that the report of Caste Verification Committee is cryptic. The decision making process and the final order dated 18/09/2018 is not passed after following due process.

21. In the result, the Petition is allowed and the order dated 18/09/2018 is hereby set aside.

(Milind Ramesh Phadke)

Judge

13/03/2023

Pawar/-