



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

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 4<sup>th</sup> OF NOVEMBER, 2024**

**WRIT PETITION No. 25511 of 2019**

***GHANSHYAM BHATI S/O SHRI PARMANAND BHATI THR.  
GUARDIAN SHRI GHISALAL BHATI***

*Versus*

***GENERAL ADMINISTRATION DEPARTMENT AND OTHERS***

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**Appearance:**

*Shri L. C. Patne - Advocate for the petitioner.*

*Ms. Mradula Sen – G.A./P.L. for respondents/State.*

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**ORDER**

1] Heard.

2] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

- “1. यह कि, याचिकाकर्ता द्वारा प्रस्तुत याचिका सव्यय स्वीकार किये जाने की कृपा होवे।
2. यह कि, प्रत्यर्थागण को योग्य रिट/पृच्छा के माध्यम से, आदेशित निर्देशित कर प्रत्यर्था क्र. 3 द्वारा दिनांक 07.10.2019 को निरस्त किया जाकर याचिकाकर्ता का अनुसूचित जनजाति का जाति प्रमाण पत्र जारी किये जाने के आदेश प्रदान किये जाने की कृपा होवे।
3. अन्य कोई सहायता माननीय न्यायालय को उचित प्रतित होवे याचिकाकर्ता को प्रदान किये जाने के आदेश निर्देश प्रदान किये जाने की कृपा होवे।”

3] The grievance of the petitioner is that vide order dated 07.10.2019, the claim of the petitioner for issuance of scheduled tribe



caste certificate has been rejected by the respondent No.3 SDO, Neemuch. Vide the impugned order dated 07.10.2019, the respondent No.3 has observed that since in the revenue record, the caste of the petitioner has been at some place Mogia and at other places Bawari, hence, he cannot be issued the caste certificate.

4] The petitioner has relied upon the caste certificate issued to his father on 18.06.2016, by the respondent No.3, and has also relied upon the Circular issued by the State Government (Annexure P/9) dated 11.08.2016, wherein it has been provided that for the conformation of one's caste, the caste certificate issued to his/her father, uncle, brother, sister or grand-father, subsequent to 1996 by the SDO, shall be admissible. Thus, it is submitted that since the caste certificate holding that the father of the petitioner belongs to Mogia caste, which is a scheduled tribe in the year 2016 would be applicable to the case of the petitioner also and it cannot be said that the petitioner's caste cannot be verified. .

5] Counsel has also relied upon a decision rendered by the Division Bench of this Court in the case of **State of M.P. and others Vs. Dule Singh Solanki and others** reported as **2014 (2) MPLJ 239** wherein this Court has held that the caste Mogia has to be treated as scheduled tribe while referring to the Fourth Schedule, Amendment of the Constitution (Scheduled Tribes), Order, 1950 in which at Serial No.16 Mogia caste has been mentioned, and this Court, also relying



upon a Circular issued by the State Government on 26.11.2002 has held that Mogia is a Scheduled Tribe and not a Scheduled caste. Thus, it is submitted that the impugned order be set aside, and the respondents be directed to issue the appropriate caste certificate to the petitioner, mentioning his caste as Mogia, which is a scheduled tribe.

6] A reply to the petition, and an additional reply to the rejoinder have also been filed by the State. Counsel for the respondents/State has submitted that no case for interference is made out as there is ambiguity in the revenue record furnished by the petitioner for determination of his caste and thus, when there are two castes mentioned in the revenue record itself, no case for interference is made out. It is also submitted that even in the Will (Annexure R/5) filed along with additional reply, which has been executed by the great-grand-father of the petitioner, he has mentioned his own caste as Bawari and, thus, it is submitted that in such circumstances, no case for interference is made out.

7] In rebuttal, counsel for the petitioner has drawn the attention of this Court to the order dated 05.08.2019, passed by the Collector, Neemuch (Annexure P/6) arising out of the order passed by the SDO, whereby the SDO had earlier rejected the application filed by the applicant/petitioner for issuance of caste certificate for scheduled tribe. In the aforesaid order passed by the Collector, it has been specifically held that the Mogia caste is also referred to as the



Bawari, and has also relied upon the Circular dated 11.08.2016 in which it is provided that the caste certificate has to be issued where it has already been issued to the father, brother and sister of the applicant and no further scrutiny is required to be carried out. In the aforesaid order, the Collector has also directed the SDO to issue the caste certificate, however, the SDO, instead of issuing the caste certificate has again held that due to ambiguity in the revenue record, the caste certificate cannot be issued.

8] Heard. Having considered the rival submissions and on perusal of the documents filed on record as also the order passed by the Division Bench of this Court in the case of **Dule Singh Solanki & others (supra)**, this Court is of the considered opinion that the petitioner has clearly made out a case for interference, as apparently his father Parmanand Bhati has already been issued a caste certificate, certifying that he belongs to Mogia caste, which is a scheduled tribe as prescribed under the Presidential Order, and has also been held to be scheduled tribe by the Division Bench. Further considering the fact that as per the Circular dated 11.08.2016, the caste certificate issued to the father can be taken into account to issue the caste certificate to the applicant/petitioner.

9] In such circumstances, this Court is of the considered opinion that the SDO has clearly erred in passing the impugned order, and in fact, was guilty of insubordination for not complying with the



order passed by his superior, the Collector Neemuch, on 05.08.2019, wherein it was clearly directed that the caste certificate has to be issued to the petitioner, but instead of issuing the caste certificate, the SDO has passed the impugned order, which is nothing but an act of insubordination and cannot be countenanced in the eyes of law.

**10]** Accordingly, the impugned order dated 07.10.2019 is hereby quashed and the petition is allowed with a cost of Rs.5,000/- to be paid by the concerned SDO, who has passed the impugned order, to the petitioner within a period of six weeks.

**11]** Needless to say, a caste certificate certifying that the petitioner belongs to Mogia caste, which is a scheduled tribe, be issued to the petitioner within a further period of four weeks from the date of receipt of certified copy of this order.

**12]** With the aforesaid, the petition stands **allowed** and **disposed of**.

**(SUBODH ABHYANKAR)**  
**JUDGE**