

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE SANJAY DWIVEDI
ON THE 6th OF DECEMBER, 2023
WRIT PETITION NO.2151/2021**

BETWEEN:-

**PAWAN RAO KAMBLE S/O LATE SHRI K.R.
KAMBLE, AGED ABOUT 46 YEARS, OCCUPATION
POLICE SERVICE, GRP POLICE STATION
SAGAR, GRP CHOWKI – DAMOH (M.P.)**

.....PETITIONER

(BY SHRI RAHUL DESHMUKH - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
THROUGH THE PRINCIPAL SECRETARY,
HOME DEPARTMENT, MANTRALAYA,
VALLABH BHAWAN, BHOPAL (M.P.)**
- 2. DEPUTY DIRECTOR, TRIBAL WELFARE
DEPARTMENT (M.P.)**
- 3. SAURABH CHOUKSEY, R/O. 2/25, SADAR
BAZAAR, DISTRICT SAGAR (M.P.)**
- 4. ANIL CHOUKSEY, R/O. 2/25, SADAR
BAZAAR, DISTRICT SAGAR (M.P.)**
- 5. SWAPNIL CHOUKSEY, R/O. 2/25, SADAR
BAZAAR, DISTRICT SAGAR (M.P.)**

.....RESPONDENTS

(NO.1 & 2 BY SHRI TAPAN BATHRE – PANEL LAWYER)

(NO.3 TO 5 BY SHRI ARVIND PATEL - ADVOCATE)

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Reserved on: 03.10.2023

Pronounced on: 06.12.2023

This petition having been heard and reserved for orders, coming on for pronouncement this day, the Court pronounced the following:

ORDER

The instant petition was heard finally with the concurrence of learned counsel for the parties and today the order is being pronounced.

2. This petition has been filed under Section 226 of the Constitution of India, whereby the petitioner is seeking to quash the impugned show notice dated 15.01.2021 (Annexure-P/11) and for a direction to respondents-authorities not to take any coercive action on the basis of frivolous complaint of private respondents. By the impugned notice issued by respondent No.2 raising clouds over the genuineness of petitioner's caste certificate and getting employment on that basis and asking the petitioner to appear before the said authority along with all relevant documents to prove the veracity of caste certificate.

3. As per the facts of the case, the petitioner vide letter dated 07.02.2014 (Annexure-P/1) had informed the Superintendent of Police, Sagar that the private respondents are bent upon to unnecessarily harass him and they have threatened to ensnare in a false case so that petitioner would lose his employment. It was also informed that there was civil dispute pending between them and to settle the dispute, they are in habit of making false complaints against the petitioner. On 13.08.2015, the private respondents have made fallacious complaint against the petitioner saying that he had managed to obtain fake caste certificate of Scheduled Tribe, whereas he does not belong to said community and

therefore enquiry is indispensable. In furtherance to the said complaint, a notice was issued to the petitioner by Deputy Superintendent of Police (Rail) Katni. Thereafter, an enquiry report was also submitted by the Deputy Superintendent of Police (Rail) Katni to the Superintendent of Police (Rail) Jabalpur in which it is mentioned that during the course of enquiry, the petitioner filed several documents to substantiate that false complaints were being made by private respondents against him only because there is some civil dispute pending between them and as such it was found that the complaint was fictitious and it was also observed that the petitioner's caste certificate was not forged one. Once enquiry has been conducted and report has been submitted with a clear finding of the Enquiry Officer that the respondents have made false complaint and also that the petitioner belongs to Harijan community, nothing more is required, however, second show cause notice has been issued on 22.04.2020 (Annexure-P/9) on the same premise. The petitioner assailed the said notice by filing W.P.No.9311/2020 and this Court vide order dated 22.07.2020 directed the respondents not to take further action on the notice dated 22.04.2020.

4. Shri Rahul Deshmukh, learned counsel appearing for the petitioner sanguinely submitted that attempt of the private respondents by making false complaint to victimize the petitioner should not be entertained anyway by exposing him to face the enquiry time and again. Raising clouds of suspicion over the competency of the authority, learned counsel submitted that even otherwise enquiry by the Deputy Director cannot be initiated to ascertain the correctness of the caste certificate of the petitioner because he is not the competent authority. The validity of the caste certificate, according to Shri Deshmukh, can be ascertained only by the competent authority i.e. State Level Caste

Scrutiny Committee, as has been set at rest by the Supreme Court *in re Kumari Madhuri Patil & Anr. v. Addl. Commissioner, Tribal Development & Ors. (1994) 6 SCC 241.*

5. Both the learned counsel appearing for the respondents opposed the submissions made on behalf of the petitioner in unison and submitted that no interference is warranted at this stage inasmuch as it is merely a show cause notice and supposedly the petitioner should face the enquiry. The reply of the respondents-State is almost reticent except stating that if a complaint is made, the enquiry can very well be initiated by the authorities. Indeed, there is admission in the reply that caste certificate can be cancelled by the competent authority i.e. State Level Caste Scrutiny Committee only. Lastly, it is averred in the reply that the show cause notice is not **de hors** the law and at best, the petitioner should participate in the enquiry to stand upon the test of time.

6. I have heard the learned counsel for the rival parties and meticulously perused the documents made available on record.

7. On ransacking the record, I find that the authority has issued the impugned show cause notice without discerning the aspect that enquiry with regard to genuineness of petitioner's caste certificate had already been conducted and report thereof had already been mulled over by the authorities. Such a report is made part of the record, in which, earlier Enquiry Officer categorically threw light over the proclivity of private respondents of targeting the petitioner by making frivolous lamentations to anyhow cast a slur upon him so that he may lose his employment. The foundation of reaching such a conclusion is engrafted in the said report, which bespeaks that there is civil dispute pending between the petitioner and private respondents. Ergo, it is insignificant to compel the petitioner to reappear in the enquiry for akin purpose, that

too on the anvil of complaint made by the private respondents, who are proven of keeping personal antipathies against the petitioner. Such practice of misusing the law just to settle personal score cannot be green-signaled. Indeed, various documents are available on record to justify the petitioner's submission that civil dispute is pending before the competent authority in which the private respondents are party. In a statement recorded before the trial Court, respondent No.4 has admitted that the petitioner belongs to Harijan community and judgment has been passed in that criminal case by the trial Court in which the petitioner was one of the accused and order of acquittal was passed in favour of the petitioner. On the one hand, private respondents are stating before the Court about the particular caste of the petitioner and on the other hand, they made complaint in regard to petitioner's caste before the authorities. Such duality has no place in law and is highly deprecated.

8. In view of the above discourse, the petition is **allowed**. The impugned notice dated 15.01.2021 (Annexure-P/11) is hereby set aside. It is directed that the respondents-authorities shall not proceed on the complaint made by the private respondents as they have personal grudge with the petitioner. However, the authority, if so desire and having any doubt about the caste certificate, may proceed further but through the competent authority i.e. State Level Caste Scrutiny Committee.

(SANJAY DWIVEDI)
JUDGE