

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORIGINAL APPLICATION NO.200/00653/2019

Jabalpur, this Thursday, the 3rd day of October, 2019

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Geeta Mudiya, S/o Shri Dori Lal Raikwar,
D.O.B. 01.12.1974, Working as Examiner Highly Skilled,
R/o 630, Shakti Nagar, Badanpur,
Jabalpur (M.P) 482001
(By Advocate –Shri Vijay Tripathi)

- APPLICANT

Versus

1. Union of India through its Secretary,
Ministry of Defence, Department of Defence Production,
South Block, New Delhi – 110001.

2. Chairman/Director General, Ordnance Factory Board,
10-A, Shahid Khudi Ram Bose Marg, Calcutta – 700001 (W.B.).

3. Sr. General Manager, Ordnance Factory Khamariya,
Jabalpur (MP) – 492005.

4. Sub Division Officer (Revenue), Gotegaon, District
Narsinghpur (MP)

- RESPONDENTS

(By Advocate – Shri Surendra Pratap Singh)

O R D E R

By Navin Tandon, AM.-

The applicant is aggrieved with issuance of a charge sheet against her on the charges of submission of false caste certificate and false statement in police verification report.

2. The brief facts as submitted by the applicant are as under:-

2.1 She was appointed as Examiner (Semi Skilled) on 11.11.2011 and in due course of time she was promoted as Examiner (Skilled) and thereafter as Examiner (Highly Skilled).

2.2 She belongs to 'Majhi' community of Narsinghpur district of Madhya Pradesh and her surname is 'Raikwar'. She was issued caste certificate dated 24.07.1990 (Annexure A-2) of belonging to Scheduled Tribe wherein her caste has been shown as 'Majhi'. Later on, her caste certificate was cancelled by the High-Power Committee and the order of the High Power Committee has been challenged by the applicant by filing Writ Petition No.2139/2004 before the Hon'ble High Court of Madhya Pradesh at Jabalpur, which is still pending for final adjudication.

2.3 She had solemnized her marriage with Shri Bhagwan Das Mudiya on 16.03.2003. The Mudiya community has been recognized as Scheduled Tribe. After marriage, the applicant applied before the competent authority for issuance of the certificate of Scheduled Tribe. Accordingly, she was issued certificate dated 04.04.2007 (Annexure A-3).

2.4 The respondent-department issued a letter dated 10.12.2018 (Annexure A-4) to the Sub-Divisional Officer, Gotegaon, Narsinghpur (MP) enquiring about genuineness of aforementioned caste certificate

dated 04.04.2007. In response to said letter, the Sub-Divisional Officer, Gotegaon, Narsinghpur (M.P.) issued a letter dated 01.01.2019 (Annexure A-5) informing the respondent-department that after examination it has been found that there is no entry of the certificate dated 04.04.2007 issued in favour of the applicant. It has been further mentioned in the said letter dated 01.01.2019 that the applicant belongs to Raikwar caste, which comes under OBC category and that the applicant does not belong to scheduled tribe community.

2.5 Thereafter, the respondent-department issued a show cause notice to the applicant, which has been challenged by her by filing Writ Petition No.27619/2018, which is pending before Hon'ble High Court of Madhya Pradesh at Jabalpur.

2.6 She was placed under suspension vide order dated 14.01.2019.

2.7 Now, the respondents have issued her the impugned charge sheet dated 13.04.2019 (Annexure A-1) alleging that she had fraudulently obtained employment by producing false caste certificate and further that she had suppressed factual information and furnished incorrect information in the PVR form.

2.8 After receiving the charge sheet dated 13.04.2019 the applicant submitted her reply dated 07.05.2019 (Annexure A-6) denying the allegations. In her representation she has specifically submitted that in

view of the law laid down by the Hon'ble Supreme Court in the matters of **Ku.Madhuri Patil Vs. Addl.Commissioner, Tribal Development**, (1996) 6 SCC 241, only High Power Committee is empowered to determine the caste.

3. The applicant has, therefore, sought for the following reliefs:

- “(8.1) Summon the entire relevant record from the possession of respondents for its kind perusal;
- (8.2) Set aside the charge sheet dated 13.04.2019 Annexure A/1 with all consequential benefits.
- (8.3) Any other order/orders, direction/directions, as deemed fit, may also be passed;
- (8.4) Award cost of the litigation to the applicant.”

4. The respondents in their reply have submitted as under:-

4.1 The applicant, while applying for the post of Examiner Engg. as ST candidate, had filled up her name as Geeta Raikwar (Mudia) W/o Bhagwan Das Mudia. She had not mentioned address of Narsinghpur (MP) in her attestation form and due to this reason Police Verification was not done from Narsinghpur.

4.2 In column No.12(i) of PVR form she suppressed that Criminal Case No. 679/2002 under Sections 420, 467, 471 and 120-B of the IPC is pending against her before ACJM Jabalpur. The said case is still pending before the Judicial Magistrate, First Class, Jabalpur wherein she had taken bail from Hon'ble High Court of Madhya Pradesh, Jabalpur. Due

to suppression of these facts in column 12(i) of the PVR form, the police verification report has been received satisfactory from office of the Dy. Commissioner of Police Special Branch Delhi-2 (Annexure R-7).

4.3 The applicant herself annexed two ST caste certificates one belonging to 'Majhi' caste and another belonging to 'Mudia' caste, which clarify that she belongs to Raikwar caste by birth and after marriage with a person who belongs to Scheduled Taste of Mudia, she is taking benefit of ST caste certificate of Mudia, which is impermissible as per government orders.

4.4 The case of the applicant does not come under the purview of verification of High Level Committee

5. Heard learned counsel for the parties and carefully perused the pleadings of respective parties and the documents annexed therewith.

6. It is now no more res integra that that if there is a dispute regarding the caste certificate the matter is to be referred to High Power Committee/Caste Scrutiny Committee and no suit or other proceedings before any other authority should lie. The Hon'ble Supreme Court in the matter of ***Ku. Madhuri Patil*** (supra) has laid down following principles in Para 13 of the judgment:-

"(13). The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on

them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

(1). The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.

(2). The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.

(3). Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.

(4). All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

(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.

(6). *The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-a-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.*

(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.*

(8). *Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear*

before the Committee with all evidence in his or their support of the claim for the social status certificates.

(9). The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

(10). In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

(11). The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

(12). No suit or other proceedings before any other authority should lie.

(13). The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.

(14). In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

(15). As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel

the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post.

(emphasis supplied)

7. In the instant case we find that the respondent-department had issued a letter dated 10.12.2018 (Annexure A-4) to the Sub-Divisional Officer, Gotegaon, Narsinghpur (M.P.) and in response to that letter the Sub Divisional Officer Gotegaon, Narsinghpur vide his letter dated 01.01.2019 (Annexure A-5) intimated the respondent-authorities that there is no entry of the certificate dated 04.04.2007 (Annexure A-3) issued in favour of the applicant and that the applicant belongs to Raikwar caste, which comes under OBC category and the applicant does not belong to Scheduled Tribe community. The respondent-department relying upon the said letter, issued the show cause notice to the applicant, which has been challenged by her by filing Writ Petition No.27619/2018, which is pending before the Hon'ble High Court. Thereafter, now the respondent-department issued the impugned charge-sheet alleging that the applicant has fraudulently obtained employment by producing false caste certificate. Whereas, in terms of the law laid down by the Hon'ble Supreme Court in the matters of ***Ku. Madhuri Patil*** (supra) it is incumbent upon the respondent department to refer the matter to the High Power Committee/Caste Scrutiny Committee for enquiring about the genuineness of the caste of the applicant as per principles laid down in

Para 13 of the ***Ku. Madhuri Patil***'s case (supra). Thus, the instant case is fully covered by the decision in the matters of ***Ku. Madhuri Patil*** (supra) as a doubt has been raised about the authenticity of the caste certificate which was issued in favour of the applicant. Their lordships in the matters of ***Ku. Madhuri Patil*** (supra) have also held that "No suit or other proceedings before any other authority should lie".

8. In this view of the matter, we are of the considered opinion that the respondent-authorities could not have framed a charge against the applicant pertaining to fraudulently obtaining the employment by producing false caste certificate, without referring the matter to the High Power Committee/Caste Scrutiny Committee in terms of the decision in the matters of ***Ku. Madhuri Patil*** (supra).

9. We find that the impugned charge sheet dated 13.04.2019 (Annexure A-1) has two articles of charge; viz:

- (i)** Fraudulently obtained a Govt. job by producing false caste certificate.
- (ii)** Suppression of factual information & furnishing of false information in the PVR form.

9.1 It is clear that the two articles are separate from each other.

9.2 We also find that the applicant has not raised any arguments in respect of Article (ii) of the charge i.e. Suppression of factual information & furnishing of false information in the PVR form.

10. Accordingly, this Original Application is disposed of with a direction to the respondents to delete charge No.1 pertaining to fraudulently obtaining a Govt. job by producing false caste certificate, from the impugned charge sheet. However, as far as the remaining charge in the impugned charge sheet pertaining to “suppression of the factual information & furnishing of false information in the PVR form” is concerned, the respondents are at liberty to proceed against the applicant in accordance with law. The interim order passed earlier stands vacated.

11. The respondents are at liberty to refer the case to High Power Committee for ascertaining the correctness or otherwise of the caste certificate dated 04.04.2007 (Annexure A-3).

12. No costs.

(Ramesh Singh Thakur)
Judicial Member

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(Navin Tandon)
Administrative Member