

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPC No. 3068 of 2019

Ajit Pramod Kumar Jogi

-Versus-

The Committee, High Power Certification Scrutiny Committee & Another

04/09/2019	Mr. Gary Mukhopadhyay & Mr. Rahul Tyagi, Advocates for the petitioner. Mr. S.C. Verma, Advocate General along with Chandresh Shrivastava, Deputy Advocate General for the State. Mr. Salman Khurshid, Learned Senior counsel with Ayesha Jamal, Counsel for the respondent No. 1. Mr. Upendra Nath Awasthi, Senior Advocate along with Ms. Raksha Awasthi, Advocate on behalf of the Applicant/Intervenor-Mr. Nand Kumar Sai. Mr. Sandeep Dubey, Advocate on behalf of Applicant/Intervenor-Mr. Sant Kumar Netam. Mr. Harshwardhan, Advocate on behalf of the Applicant/Intervenor-Ms. Sameera Paikra. I.A. No. 3, I.A. No. 5 & I.A. No. 6 are three I.As., which have been filed by the aforementioned three persons seeking intervention. The arguments on behalf of all three applicants were broadly the same. The request for permission to argue in the case as an intervenor and also for being impleaded

as a necessary party was primarily on the ground that the three persons are members of the scheduled tribe category. One of them Mr. Nand Kumar Sai was a Member of the Parliament for a considerable period of time and that he represented the area, which was predominantly belonging to the scheduled tribe category people and it was on a writ petition preferred by said Mr. Nand Kumar Sai that the caste verification of the petitioner herein was initiated.

Likewise, the contention of the other applicant Mr. Sant Kumar Netam also is on similar line. It was contended on his behalf that he was the original complainant and at whose instance the caste status dispute of the petitioner was subjected to scrutiny at the first instance. It was also his contention that he too belongs to the scheduled tribe community and is a public servant primarily for the people belonging to the scheduled tribe community. It was also his contention that he had been permitted to intervene in the earlier round of litigation, which the petitioner had filed and therefore he should be permitted to intervene again in the present writ petition also.

As far as the applicant/intervenor- Ms. Sameera Paikra is concerned, it is her contention that she be permitted to intervene on the ground that she has been opposing the caste status of the petitioner at various fronts in the capacity of a public servant. That she had also contested the election against the son of the present petitioner. That she had also preferred an Election Petition, so far as the election of the son of the petitioner from a seat which was reserved for the scheduled tribe community. That, since she has been opposing the caste certificate and the social status of the petitioner before the

various Forums, therefore in the larger public interest, she should be permitted to participate in the proceedings drawn before this Court in the present writ petition. That it was also her contention that she had been permitted to participate in the proceedings before the Committee and before the Committee also she had appeared and raised various objections and therefore she should now be permitted to oppose the present writ petition also.

The challenge in the present writ petition is primarily the order that has been passed by the respondent No.1 canceling the social status certificate of the petitioner, of his belonging to the scheduled tribe community. The impugned order is dated 23.08.2019. The said Committee has been constituted pursuant to the landmark judgment of the Hon'ble Supreme Court in the case of "***Kumari Madhuri Patil & Another v. Additional Commissioner, Tribal Development & Others***" reported in **(1994) 6 SCC 241**".

Down the line the State of Chhattisgarh has also enacted a law in this regard, which is known as "**The Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013**". The Act provides for the procedure to be adopted by the Committee, while deciding the caste status. It also prescribes the method in which investigation is to be done to ascertain whether the caste certificate issued in favour of a particular person is properly issued after proper investigation or not.

The impugned order is an order, which confines only to the caste certificate which was in possession of the petitioner. The dispute is primarily between the petitioner and respondent No.1 who has passed the impugned order. It is a personal dispute of the petitioner with the respondent No.1, which has got nothing to do with the applicants/interveners or their social status, etc. The impugned order is one which is said to have been passed in accordance with the aforesaid Act of 2013 and there is nothing more, which the applicant/intervenor can contribute at this stage of litigation, where the writ petition is primarily in the nature of writ of certiorari questioning the order passed by a quasi-judicial statutory Committee. All that which has to be seen is that firstly whether the findings arrived at by the Committee is in accordance with law, secondly, whether the Committee while passing the impugned order has following the principles of natural justice or not, and thirdly, whether the said respondent No.1-Committee has granted the petitioner a fair and reasonable opportunity of hearing.

The respondent No.1-Committee is itself being represented by their own set of Legal Advisors and Lawyers. The respondent No.2-State also is represented by their own Law Officers. Under the circumstances, this Court is of the opinion that the interveners as such do not have much to contribute in the dispute in hand, in as much as there is nothing new which this Court could look into except that which has come up before the respondent No.1-Committee in the course of the proceedings, which resulted in the passing of the impugned order Annexure P/1.

Allowing of the writ petition or at the same time rejection of the writ petition would not have any direct or indirect infringement of any of the personal rights and liberties of the applicant/intervener. Merely because the three applicants/interveners happens to belong to a particular community or tribe would not give them the privilege of intervening in any of the dispute related to the social status of a person, who has a certificate in his favour of the category to which the applicant/intervener belonged. It might be that the applicant/intervener must have questioned the social status of the petitioner at one point of time. They might have also raised the dispute before the High Court at one point of time and it could also be an order passed in their writ petition, pursuant to which the investigation by the respondent No.1-Committee must have been initiated. Once when the dispute is entertained by the respondent No.1-Committee, the respondent No.1-Committee is expected to conduct itself in accordance with the procedure prescribed and also after following all the principles of natural justice.

The basic rationale for intervention is that the judgment in the particular case may affect the right of the non-parties, who ideally should have the right to be heard. If the Court's decision in a particular case might adversely affect the proposed interveners' interest, only then, he can become an intervenor. An intervenor's application is required to be allowed to ensure that the Courts ruling does not have an adverse consequence on the interest of the interveners.

A person seeking intervention would first have to establish as to how on

the allowing of the writ petition or the rejecting of the writ petition, he/she would be affected. It is settled position of law that a stranger to a dispute cannot be permitted to meddle any proceedings unless he satisfies the Court that he in fact falls within the category of aggrieved person. Only a person, who may suffer a legal injury can move an application for intervention. A writ of certiorari is basically questioning the order passed by the statutory body discharging either legal or quasi-judicial functions. As has been stated in the preceding paragraphs, the allowing of the writ petition or the rejection of the writ petition is not in any manner affect any of the personal rights, liberties and the social status of the applicants/interveners that they belonged to.

A person cannot be permitted to intervene in a writ petition where the challenge is directly challenging the order passed by the respondent No.1-Committee canceling the caste certificate issued in favour of the petitioner, which has got nothing to do with the social status of the applicant/intervenor. Unless a person is able to demonstrate infringement of any of his legal right or prejudice of some of the legal rights inherent in it. He cannot be termed to be an aggrieved person. The expression "person aggrieved" does not include a person, who suffers from psychological or imaginary injury, a person aggrieved must therefore, necessarily be one, whose right or interest has been or would be adversely affected or jeopardized in the event of allowing of the writ petition. A stranger having no right whatsoever and whose personal interest is not going to get affected in any manner in the event of the petition being allowed or being rejected, cannot be permitted to intervene in the affairs of the others

particularly in a personal dispute inter se, between the petitioner and the respondent No.1-Committee.

The impugned order in the present writ petition is one, which would be tested confined to the matter germane for decision and would also be confined to the material brought before the respondent No.1-Committee and the documents produced during the course of hearing by the respective parties.

An intervener unless his right is directly or indirectly affected adversely on the writ petition being allowed, would have no locus to intervene in a matter. What cannot be brushed aside is the fact that present is not a public interest litigation, nor is it a petition filed in the public interest. The present is a writ petition filed by a person, who is directly aggrieved by the order passed by the respondent No.1-Committee. The power of judicial review to be exercised by this Court is one of supervisory in nature. This Court would not and cannot go beyond the proceedings drawn and the procedure adopted by the respondent No.1-Committee and also cannot go beyond the documents, which are brought on record before the respondent No.1 in the course of deciding of the matter. The right to intervene is only a very limited right that too only in the event of a personal right of the intervenor getting adversely affected in allowing of the writ petition.

In view of the foregoing reasons, the applications for intervention i.e. I.A. No.3, I.A. No.5 & I.A. No.6 stand rejected.

During the course of the arguments counsel for the petitioner submitted

that impugned order is bad on the ground that firstly the principles of natural justice has been grossly violated. Secondly, the petitioner was denied material facts and documents which were relied during the course of the enquiry. Petitioner was denied the right of cross-examination of the witnesses examined during the course of the enquiry. The petitioner was not permitted to inspect the documents which were used against the petitioner.

This Court wanted to peruse the records of the Committee, learned Senior counsel appearing for the Committee Respondent No. 1 submitted original records are not available and prayed for short adjournment for bringing the same. Learned senior counsel for respondent No. 1 is granted 10 days time as sought for and the matter be taken up on 26.09.2019.

Counsel for the petitioner at this juncture requested for interim protection. He further submits that department already has registered an FIR against the petitioner and they are proceeding to question the status of the petitioner who is a sitting MLA and that status of sitting MLA is under threat as of now.

Considering the entire facts and circumstances of the case and also taking note of the fact that FIR already has been registered against the petitioner without making any observation so far as the registration of FIR is concerned and without staying the further proceedings on the FIR, purely as an interim measure, let status quo as it exists today so far as status of the petitioner being a sitting MLA is concerned be maintained till the next date of

hearing. In other words, it means that authorities under the State Government would not initiate any proceedings till the next date of hearing for declaring the petitioner disqualified as an MLA pursuant to the impugned order Annexure P-1 which is under challenge in the present writ petition.

List this case on 26.09.2019.

**Sd/-
(P. Sam Koshy)
JUDGE**