

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

W.P.(C.) No. 3068 of 2019

Ajit Pramod Kumar Jogi **-Versus-** The Committee & Anr.

<u>18/10/2019</u>	Mr. Mr. Gary Mukhopadhyay & Mr. Vivek Sharma, Advocates for the petitioner. Mr. S.C. Verma, A.G. along with Mr. Adil Minhaj & Mr. Ghanshyam Patel, G.A. for the State/respondent No.1 & 2. Mr. U.N. Awasthi, Sr. Advocate with Ms. Raksha Awasthi, counsel for applicant/intervener- NCST Mr. J.K. Gilda, Sr. Advocate with Mr. Syed Mazid Ali, counsel for applicant/intervener- Dhan Singh Kanwar. Mr. Sudeep Shrivastava, Advocate with Mr. Sandeep Dubey, counsel for the applicant/Intervener – Sant Kumar Netam. Heard on I.A. No.07, application filed on behalf of National Commission for Schedule Tribes praying for impleadment in this petition as a necessary party and I.A. No. 9 seeking intervention in the writ petition. It is submitted that the Constitution of India has entrusted N.C.S.T. with numerous duties which are mentioned in Article 338(5) of Constitution of India. Therefore, the N.C.S.T. is continuously working on this line for protection of rights of Schedule Tribe persons, who are being deprived of their rights by use of forged and fake social status certificates by number of persons. N.C.S.T. has received a number of complaints from this State and despite the past efforts made, the cases are pending for inquiry. It is submitted that the petitioner in this case the petitioner not being a member of Schedule Tribe has fraudulently obtained such certificates and he is making use

of this caste certificate for contesting election. The cancellation of caste certificate has been finalized by respondent No.01 but because of pendency of litigation and interim stay order granted in his favour, he is continuing to draw benefits. It has been held in the judgment of Supreme Court in ***Collector Bilaspur Vs. Ajit Pramod Kumar Jogi***, reported in **2011 (10) SCC 357** that the Commission can initiate the proceedings for cancellation of certificate and also can initiate criminal action, therefore, looking to the responsibility vested with NCST, it is prayed that NCST be impleaded as a proper party.

Sr. Counsel Mr. J.K. Gilda, appearing for Dhan Singh Kanwar, who claims to be President of Saatgarh Kanwar Samaj arguing on I.A. No.09 submits that the applicant is a necessary party for the reason that the persons belonging to Kanwar Samaj have been cheated by the petitioner and because of the false certificate obtained and utilized by the petitioner, the members of Kanwar Samaj have been deprived of their constitutional rights. Making reference to the order of Division Bench of this Court in W.A. No.432 of 2019, it is submitted that in that order, the Division Bench had made reference to the order in W.P.(C) 2104 of 2017, in which it was held that the National Commission for Scheduled Tribe and the applicants are proper parties though not necessary parties. Therefore, they may be permitted to intervene in the petition, however, they were restrained from making any pleading or incorporating further facts or documents, it has been followed and order has been passed accordingly. It is also submitted that this Court being a Single Bench is bound to follow the order of Division Bench hence prayed that application for intervention be allowed.

Counsel for the petitioner submits that the petitioner has already a status as being a member of Kanwar Tribes. Placing reliance on the judgment of ***Collector, Bilaspur (supra)*** it is submitted that it is not for the Commission to hold an enquiry to determine the caste certificate of any individual and it is for the State Government or such authority dealing with the matter to enquire into the complaint,

which has been done by the High Power Scrutiny Committee. This petition is specifically brought to challenge the procedure followed by the High Power Scrutiny Committee, in which the principle of natural justice was not followed. Therefore, the dispute is only between the petitioner and the respondent No.1. Hence, none of the interveners can be allowed to intervene in this petition.

Referring to Rule 22 of C.G. Scheduled Caste, Scheduled Tribes & Other Backward Classes (Regulation of Social Status Certification) Rules, 2013, it is submitted that according to Sub-rule -3, the Scrutiny Committee had issued a public notice and there had been opportunity for all the persons concerned to appear and object before the Committee within the prescribed period.

As the interveners here did not appear before the said Committee, therefore, they had waived their rights to intervene in this case. Hence, it is prayed that the application be rejected.

Mr. S.C. Verma, Advocate General appearing for respondent No.1 and 2 does not oppose the applications filed for intervention in this writ petition.

In reply, it is submitted by the Mr. U.N. Awasthi, learned Sr. Advocate for the intervener NCST that NCST has the authority as well as duty under Article 338 of the Constitution of India to intervene in such petition. Only for the reason that the NCST did not appear before the High Power Scrutiny Committee, the right of NCST can not be taken away. This is a writ petition under Article 226 of Constitution of India, in which all the persons concerned can make their submissions to assist the Court and to contribute in the decision making process. Making a reference to ***Madhuri Patil Vs. Additional Commissioner, Tribal Development & Ors***, reported in ***(1994) 6 SCC 241***, it is submitted that Hon'ble Supreme Court has made observations that such matter should not be kept pending for long and such persons, who are taking advantage of false and bogus certificates should be dealt with and can

not be allowed to continue with the benefits claimed by them. Hence, for this reason, the NCST has the duty to perform, therefore, it may be impleaded as a necessary party in this case.

Considered on the submissions made by the counsel appearing for interveners and the response given by the counsel appearing for the petitioner. Earlier this Court has passed an order dated 04.09.2019 rejecting the application of other interveners namely Ms. Samira Paikara and Sant Kumar Netam. As it appears on perusal of the previous order that the order of Division Bench of this Court in W.A. No.432 of 2019 was not brought to the notice of this Court by which the affected person including the NCST were allowed to intervene as a proper party with rider that they shall not be allowed to make any pleading and submit any document or other facts. Therefore, pursuant to this observation and decision of the Division Bench and also for the reason that the interveners can assist this Court on the basis of the facts and circumstances that are already present and also can assist the Court in showing the clear position of law as well as other settled principle, therefore, I feel inclined to allow the applications filed by the interveners-NCST and by Dhan Singh Kanwar only to this extent that they can intervene in this petition as proper parties and they shall not be treated as necessary parties for the reason that the main contest is between the petitioner and the respondent No.1.

Hence, the applications I.A. No.7 and I.A. No.9 are allowed to this extent that the prayer of NCST for impleadment as **necessary** party is allowed. It is made clear that the prayer of NCST for impleading as necessary party is not allowed. It is also made clear that the interveners are not allowed to made in any pleading or file any documents. Therefore, their contribution shall be limited in submitting arguments.

At this stage, the counsel for the petitioner submits that as the case is to be listed for final hearing, therefore, the interim relief granted to the petitioner be continued, till the next date of hearing.

Learned senior counsel appearing for NCST objects to this prayer and submits that the interim relief granted to the petitioner be discontinued for the reason that the petitioner is not entitled for the same. Placing reliance on the judgment of Supreme Court in case of ***Chairman and Managing Director, Food Corporation of India and Ors. Vs. Jagdish Balaram Bahira and Others***, reported in **(2017) 8 SCC 670**, it is prayed that the interim relief granted to the petitioner be discontinued.

Considering that the petitioner was granted interim relief by this Court by order dated 04.09.2019 only to this extent that status-quo should be maintained regarding the status of the petitioner as MLA that order has been further extended by order dated 04.10.2019. As the petition is to be heard finally in the next date of hearing, therefore, I find no reason to discontinue the interim relief granted to the petitioner. Hence, it is ordered that the interim relief granted to the petitioner so far, shall continue till the next date of hearing.

List this case on 6th of November, 2019.

In the meanwhile, the petitioner may file rejoinder to the reply filed by the respondents and no further time shall be granted for the same.

Sd/-

(Rajendra Chandra Singh Samant)

Judge