

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 435 OF 2024 (GM-CC)

BETWEEN:

1. SHRI G. MANJUNATHA
S/O. LATE GOVINDU
AGED ABOUT 44 YEARS
MEMBER OF LEGISLATIVE ASSEMBLY
R/AT: MARAHERU KOTHUR
AMBLIKAL POST
MULBAGAL TALUK
KOLAR - 563 101

...APPELLANT

(BY SRI VIGNESHWARA S. SHASTRI, SENIOR ADVOCATE FOR
SRI IRISHAD AHMED B.M., ADVOCATE)

AND:



1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF SOCIAL WELFARE
M.S. BUILDING, VIKASA SOUDHA
AMBEDKAR VEEDHI
BANGALORE - 560 001
2. THE DEPUTY COMMISSIONER AND
CHAIRMAN DISTRICT CASTE
VERIFICATION COMMITTEE
MULBAGAL ROAD, NH-75
KOLAR DISTRICT, KOLAR - 563 101

3. THE DEPUTY SECRETARY (ADMN)
DEPARTMENT OF ZILLA PANCHAYATH
KOLAR CHICKBALLAPUR ROAD
KOLAR DISTRICT, KOLAR - 563 101
4. THE TAHSILDAR
MULBAGAL TALUK
KOLAR DISTRICT
KOLAR - 563 131
5. MEMBER SECRETARY/
THE JOINT DIRECTOR
DEPT. OF SOCIAL WELFARE
KOLAR DISTRICT, GANDHINAGAR
KOLAR DISTRICT - 563 101
6. THE DEPUTY SUPERINTENDENT OF POLICE
CIVIL RIGHTS ENFORCEMENT CELL
KOLAR DIVISION, KOLAR - 563 101
7. SHRI N. MUNIANJINAPPA
S/O. H. NARAYANAPPA
WARD NO. 8, MUTHYALAPETE
MULBAGAL TOWN
KOLAR DISTRICT - 563 131
8. SHRI G VENKATARAVANA
S/O. LATE GOVINDU
MARAHERU KOTHURU VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
9. SHRI AMARESH
S/O. MUNISWAMY @ SAKRAPPA
KEELAGANI VILLAGE
AVANI HOBLI, MULBAGAL TALUK
KOLAR DISTRICT - 563 131

10. SHRI M. N. AMBARISH
S/O. NARAYANAPPA
MALEKUPPA VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
11. SHRI P. CHANDRAPPA
S/O. LATE PILLAPPA
ASALI ATHIKUNTE VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
12. SHRI JAGADISH
S/O. KRISHNAMURTHY RAJ
NO. 3264/5, MUTHYALPET
MULBAGAL TOWN
KOLAR DISTRICT - 563 131
13. SHRI C. RAMAKRISHNAIAH
S/O. LATE CHINNAPPA
KURAGAL VILLAGE AND POST
KOLAR TALUK
KOLAR DISTRICT - 563 101
14. SHRI RANJITH KUMAR
S/O. M. THIMMAIAH
NETHAJI NAGAR
MULBAGAL TOWN AND TALUK
KOLAR DISTRICT - 563 131
15. SHRI H.A. LAKSHMAIAH
S/O. AVALAPPA
NO. 4081, 1ST CROSS
M. N. HALLI ROAD
MULBAGAL TOWN AND TALUK
KOLAR DISTRICT - 563 131
16. SHRI V. ADINARAYANA
S/O. VENKATARAMAPPA

PEDDAREDDYPALLI VILLAGE
BAGEPALLI TALUK
CHICKBALLAPUR DISTRICT - 561 207

17. SHRI G. ALANGUR RAMANNA
S/O. GANESHAPPA
SONNAVADI VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
18. SHRI CHALAPATHY
S/O. VENKATESHAPPA
NAGAMANGALA VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
19. SHRI V. MARAPPA
S/O. VENKATARASHAMBOVI
OLAGERANAHALLI VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
20. SHRI T.M. SHIVANNA
S/O. MUNIYAPPA
THORADI VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
21. SHRI Y. SRINIVASAN PATAPAT
S/O. A.V. YALLAPPA
NO. 32, B. R. AMBEDKAR ROAD
ATTIBELE, ANEKAL TALUK
BANGALORE RURAL - 562 125
22. SHRI NAGARAJ. V
S/O. VIDYARANYA
MADDERI VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131

23. SHRI T.V. BALAKRISHNA
S/O. VENKATANABOVI
THIMMANAYAKANAHALLI
MALLANAYAKANAHALLI POST
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
24. SHRI D. VENKATARAVANAPPA
S/O. DODDAKAMANNA
KESARAMANGALA VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
25. SHRI N. SRINIVAS
S/O. NARAYANAPPA
GUMMAKAL VILLAGE
G. MARANDAHALLI POST
MULBAGAL TALUK
KOLAR DISTRICT - 563 131
26. SHRI V. SRINIVAS
S/O. VENKATARAMAPPA
NETHAJI NAGAR
MULBAGAL TOWN
MULBAGAL TALUK
KOLAR DISTRICT - 563 131

...RESPONDENTS

(BY SRI C. JAGADISH, ADVOCATE FOR R-1 TO 6;
SMT. PRAMILA NESARGI, SENIOR ADVOCATE A/W
SMT. KAVYASHREE G.S., ADVOCATE FOR C/R-9 & 22;
SRI N.S. SHESHADRI, ADVOCATE FOR R-8)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
IMPUGNED ORDER DATED 20.12.2023 PASSED BY THE LEARNED
SINGLE JUDGE IN WRIT PETITION No.2841/2023 AND ALLOW WRIT
PETITION No.2841/2023 (GM-CC) AS PRAYED FOR & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed this *intra-court* appeal impugning an order dated 20.12.2023 [**Impugned Order**] passed by the learned Single Judge in Writ Petition No.2841/2023 (GM-CC). The appellant had filed the said petition impugning the Report dated 27.10.2021 [**impugned report**] submitted by respondent No.2 - The Deputy Commissioner and Chairman, District Caste Verification Committee [**DCVC**], before the Supreme Court of India in Civil Appeal No.4533/2018. The appellant also sought confirmation of the Caste Certificate dated 03.04.2012 [**the certificate**] as legal and valid. The dispute essentially is whether the appellant belongs to the *Budga Jangam* caste, which falls under the Scheduled Caste category. In the school records, the caste of the appellant is reflected as '*Byragi*', which does not fall in the category of Scheduled Castes but in the category of Other Backward Classes. The learned Single Judge, after examining the material on record,

upheld the impugned report, holding that the appellant had failed to prove that he belongs to the *Budga Jangam* caste and, therefore, the certificate certifying him as belonging to the scheduled caste category is invalid.

PREFATORY FACTS

2. The Constitution (Scheduled Castes) Order, 1950 issued on 10.08.1950 declared following six castes as scheduled castes in the erstwhile State of Mysore: (i) Adidravida; (ii) Adikarnataka; (iii) Banjara or Lambani; (iv) Bhovi; (v) Koracha; and (vi) Korama. On 29.10.1956, the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956 was promulgated. This was on account of the reorganisation of the States with effect from 01.11.1956. In terms of the said order, the Presidential Order, 1950, was modified by including '*Beda (Budga) Jangam*' as a scheduled caste in the State of Andhra Pradesh. Certain other castes were included as scheduled castes in certain districts of Karnataka. The caste '*Beda (Budga) Jangam*' was included as a scheduled caste in the districts of Gulbarga, Bidar and Raichur in the State of Karnataka.

3. The district restrictions were modified by the Notification dated 27.07.1977. By virtue of the notification, the status of caste '*Beda*

(*Budga*) *Jangam*' as a scheduled caste is no longer restricted to the districts of Gulbarga, Bidar and Raichur. The caste '*Beda (Budga) Jangam*' is listed at serial no.19 of the Scheduled Castes List in the State of Karnataka.

4. The caste '*Byragi*' is declared as one of the socially and educationally backward classes. It is so reflected in the Order dated 09.06.1960. Serial no.14 of the said order is set out below:

"14. Devadiga, Molli, Kottari, Badubuduke, Budubudukala, Bhatraju, Gondaliga, Gondali, Gangethinavaru, Jogi, Jogar, Kaniyar, Manigar, Dasari, Pandara, Patkar, **Byragi**, Dombara, Dommara, Dombari, Garudi, Garudiga, Modikar, Jatti, Katabu, Kolhati, Kolhatgi, Rachevar, Veeramusti, Kalawantula, Koteyar, Sheregar, Male, Vajantri, Balasanthosi, Natuva, Devadasi, Devli, Bandi, Padiyar, Siddis of North Kanara District."

[emphasis added]

5. The caste Byragi is included in Category-I of the list of Other Backward Classes (other than Scheduled Castes and Scheduled Tribes).

6. The appellant is not entitled to reservation as belonging to the *Byragi* caste as he falls in the creamy layer.

7. The appellant resides in Kolar district and till the year 2008, no attempt whatsoever was made by the appellant for seeking a

caste certificate to certify that he belongs to a scheduled caste (*Budga Jangam* caste). The appellant applied for a scheduled caste certificate claiming that he belongs to *Budga Jangam* caste for the first time in the year 2008 for contesting elections to the legislative assembly as a reserved category candidate. The appellant's request was rejected by the concerned Tahsildar by an endorsement dated 04.04.2008.

8. The appellant filed a Writ Petition, being W.P. No. 5932/2008 (GM-RES), impugning the endorsement dated 04.04.2008 rejecting the appellant's application for a caste certificate. The learned Single Judge of this Court disposed of the said petition by an order dated 12.09.2008, granting liberty to the appellant to avail of his remedies under Section 3(b) (sic. Section 4B) of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment Etc.) Act, 1990 [**the Act**]. Pursuant to the said liberty, the appellant filed an appeal before the DCVC. The DCVC heard the appellant and found that he did not belong to *Budga Jangam* but to the *Byragi* caste by its order dated 12.04.2008. In view of the said finding, the DCVC rejected the appellant's appeal against the order of the Tahsildar rejecting his

application for a caste certificate certifying him as belonging to the *Budga Jangam* caste.

9. The appellant did not challenge the DCVC's order rejecting his appeal. However, a few years later, he once again applied to the concerned Tahsildar for a caste certificate identifying him as belonging to the *Budga Jangam* caste. By an order dated 27.03.2012, the Tahsildar directed issuance of the *Budaga Jangam* caste certificate in favour of the appellant. And, on 03.04.2012, the appellant was issued the scheduled caste certificate. On the basis of the said caste certificate, the appellant contested the elections to the legislative assembly of Karnataka from the reserved constituency of Mulbagal Assembly Constituency. The appellant succeeded in the electoral process and was elected as a member of the Legislative Assembly.

10. Thereafter, the appellant sought copies of the record relating to the issuance of the caste certificate dated 03.04.2012, under the Right to Information Act, 2005. Separately, one Mr. G. Muralidhara made an application to the Tahsildar's office, in response to which the office of the Tahsildar issued an endorsement dated 14.03.2013, stating that the caste certificate was not issued by his office. The

computer of the concerned *taluk* office was misused to illegally make entries, and the same had been cancelled. Further, the Tahsildar stated that the caste certificate dated 03.04.2012 had not been issued by the Taluk office. It was also alleged that the appellant had obtained the caste certificate on 26.11.2010 in a similar manner by illegally misusing the computer. In this regard, an endorsement dated 15.09.2012 was issued by the Taluk office informing the appellant not to use the caste certificate.

11. In the meantime, the appellant also filed the Civil Suit, being O.S. No.107/2012, *inter alia* praying as under:

“WHEREFORE, the plaintiffs, pray that this Hon’ble Court be pleased to pass a judgment and decree in favour of the Plaintiffs:

- (a) To declare that the plaintiffs caste is “Hindu Budaga Jangam” and not as Bhairaghi.
- (b) To grant consequential relief of mandatory injunction, directing the defendants and their subordinate officers concerned to rectify the caste of the plaintiffs in their school records as “HINDU BUDAGA JANGAM” in place of BHAIRAGHI.
- (c) To grant of costs of the suit and such other relief as relief’s as this Hon’ble Court deems fit to be circumstance of the case in the ends of justice and equity.”

12. The learned Additional Civil Judge & JMFC Court, Mulbagal dismissed the said suit by an order dated 27.09.2013 as the court

found that the appellant had failed to prove that he belonged to the *Budga Jangam* caste. The appellant filed an appeal, R.A. No. 303/2013, against the said decision, which was also rejected by the II Additional Senior Civil Judge & JMFC Court, Kolar, by an order dated 18.07.2017.

13. The appellant challenged the endorsement dated 14.03.2013 in W.P. No.17122/2013 (GM-CC) before this Court. The appellant's candidature under the reserved category and election as a member of the Legislative Assembly came to be challenged in W.P. Nos.20025-20026/2013 (GM-CC) and W.P. No.24119/2013 (GM-CC) respectively. Both the said writ petitions were clubbed together since they arose from the same factual matrix.

14. The said three writ petitions were disposed of by this Court by a common order dated 18.09.2013. The court reasoned that since the subject matter of the petitions was the election of the appellant – the same was sought to be nullified on the ground that the appellant did not belong to a scheduled caste category – the same could be pursued in an Election Petition only. Insofar as the endorsement dated 14.03.2013 is concerned, the Court did not accept that the said endorsement could be set aside as unsustainable; however, it

relegated the parties to agitate the matter in an election petition, by leaving all issues open.

15. Prior to the disposal of the aforementioned writ petitions on 18.09.2013, an Election Petition, E.P. No.4/2013, had been filed by one Sri N. Munianjappa challenging the appellant's election. The said petition was allowed by this Court by an order dated 25.04.2018, holding that the appellant did not belong to the *Budga Jangam* caste but to the *Byragi* caste.

16. The appellant appealed the said decision before the Supreme Court (Civil Appeal No.4533/2018). During the course of the said proceedings, the Supreme Court passed an order dated 30.01.2020 directing the DCVC to submit its report after conducting an enquiry in accordance with the Act.

17. In compliance with the order dated 30.01.2020 of the Supreme Court, the DCVC conducted a detailed enquiry as to the appellant's claim of belonging to the *Budga Jangam* caste and furnished the impugned report holding that the appellant did not belong to the *Budga Jangam* caste but to the *Byragi* caste. The Supreme Court declined to examine the appellant's challenge to the said report and by an order dated 19.01.2023, relegated the

appellant to avail his remedies in this court. The Supreme Court observed that “it would be appropriate that the appellant take recourse to the remedies available to him under Article 226 of the Constitution of India” and granted liberty to the appellant to challenge the impugned report.

18. The learned Single Judge examined the appellant’s challenge to the impugned report as well as the material placed before the DCVC and found no fault with the impugned report. Accordingly, the court rejected the appellant’s petition in terms of the impugned order.

SUBMISSIONS

19. The learned counsel for the appellant advanced submissions on essentially three fronts. First, he referred to the decision in **Anil Rai v. State of Bihar**¹, and submitted that the impugned order is liable to be set aside as it was rendered after a period of eight months after the same was reserved. He also submitted that the order was released twenty-six days after its pronouncement and is therefore liable to be set aside.

¹ (2001) 7 SCC 318

20. Second, the appellant also claimed that the learned Single Judge had reserved the petition for orders without hearing him.

21. Third, he submitted that the learned Single Judge had erred in not examining that the DCVC had not considered the evidence, which, according to the appellant, established that the appellant belongs to the *Budga Jangam* caste. He submitted that a number of persons had recorded their statements as to the religious practices followed by the appellant; the deities worshipped; the rituals followed; the cuisine; the occupation and the way of living of the appellant and his family members. He contended that these would establish that the appellant belongs to *Budga Jangam* caste. Next, he submitted that the appellant had referred to the Kolar Gazetteer, which established that a *Budga Jangam* community existed in the District of Kolar. The other submissions made in regard to the DCVC not appreciating the material on record is noted later.

REASONS & CONCLUSION

22. We are unable to accept that the impugned order is liable to be set aside on the ground that it was delivered after a period of eight months of the order being reserved for judgment. The reliance placed by the appellant on the decision of the Supreme Court in the

case of **Anil Rai v. State of Bihar** (*supra*) is not of much assistance to the appellant. Under the guidelines issued by the Supreme Court in the said judgment, in case the judgment was not pronounced within three months from the date of reserving the same, any of the parties is permitted to file an application before the High Court for an early judgment in that case. Further, if the judgment is not pronounced within a period of six months, any of the parties are entitled to move an application to the Chief Justice with the prayer to withdraw the said case and to mark it over to any other Bench for fresh arguments. Thus, if the appellant desired that the matter be heard afresh after the period of six months from the date of reserving the judgment had expired, nothing precluded the appellant from filing an application to that effect. Concededly, no such application was filed by the appellant. Accordingly, the appellant cannot seek the setting aside of the impugned order on this ground alone. Undeniably, there is a delay in pronouncing the judgment, but it does not automatically follow that the judgment is to be set aside on the said ground. It is also necessary to bear in mind the extremely high workload of civil writ petitions classified as GM-CC. Despite this, the petition was disposed of within eleven months of its

filing. In the instant case, the petitioner filed WP No.2841/2023 (GM-CC) on 30.01.2023, which was disposed of on 20.12.2023.

23. There is also a delay in uploading the Impugned Order. However, it is also relevant to note that the Impugned Order was delivered just before the Court closed for winter vacation for almost two weeks. We are also unable to accept that the Impugned Order is liable to be set aside on the said ground.

24. The decision in the case of **Anil Rai** (*supra*) is founded on the basis that Judges tend to forget the arguments advanced if there is an inordinate delay between reserving the judgment and rendering the decision. In this view, we pointedly asked the learned counsel for the appellant whether there are any contentions which were advanced but not considered/discussed by the learned Single Judge in the Impugned Order. The learned counsel for the appellant could not refer to any of the submissions made, which were not mentioned in the Impugned Order. However, he submitted that the learned Single Judge had not appreciated the material on record and that the enquiry was not conducted as required under the Act.

25. The appellant also claimed that the learned Single Judge had reserved the writ petition for orders without hearing the appellant.

This assertion is incorrect. The orders passed in the proceedings – none of which were challenged – indicate quite the contrary. They indicate that the learned Single Judge had heard the petition on more than one occasion.

26. The principal question that needs to be addressed is whether the impugned report could be faulted on the ground that the same was prepared without conducting an appropriate enquiry.

27. We may note that the appellant's case that DCVC has disregarded the evidence/material produced to establish that the appellant belongs to the *Budga Jangam* caste, is premised on three submissions.

27.1 First, the learned Single Judge had overlooked the observations of the Supreme Court in the order dated 30.01.2020, to the effect that in Kolar Gazettier *Budga Jangam*, caste details are found. The appellant contends that in view of this observation, it was not open for the learned Single Judge to disregard the same.

27.2 Second, he submits that the entries in the records were not made by the appellant but by the school authorities and the said entries would have no evidentiary value under Section 35 of the

Indian Evidence Act, 1872. The appellant contends that the reliance placed on the school records is unconstitutional and illegal.

27.3 Third, the appellant submitted that the Revenue Inspector had visited the appellant's village and reported that the appellant is following the occupation, habits, rituals and customs of *Budga Jangam* caste. He submitted that the villagers from his village had also recorded their statements to the said effect. However, the DCVC ignored the same, and thus the impugned report is required to be set aside.

28. Before proceeding further, we may briefly note that the Object of the Act states that it was enacted to provide reservations of appointments of posts in favour of members of the scheduled castes, scheduled tribes and other backward classes in the State Civil Services and establishments in public sector and in admission to the universities and to the educational institutions established or maintained or aided by State Government.

29. Section 4 of the Act provides for reservation of appointments to any office in the civil service of the State of Karnataka or to a civil post under the State of Karnataka to the extent and in the manner as may be specified from time to time in the order made by the

government under Clause (4) of Article 16 of the Constitution of India.

30. Section 4A of the Act provides for the issuance of a caste certificate. The said Section is set out below:

4A. Issue of caste certificate and income and caste certificate.- (1) Any candidate or his parent or guardian belonging to the Scheduled Castes or the Scheduled Tribes may, in order to claim benefit of reservation under section 4, either for appointment to any service or post or for admission to a course of study in a university or any educational institution, make an application to the Tahasildar in such form and in such manner as may be prescribed for issue of a caste certificate.

(2) Any candidate or his parent or guardian belonging to other Backward Classes may, in order to claim benefit of reservation under section 4 either for appointment to any service or post or for admission to a course of study in a university or any educational Institution, make an application to the Tahasildar in such form and in such manner as may be prescribed for issue of an income and caste certificate.

(3) The Tahasildar may, on receipt of an application under sub-section (1) or (2), and after holding such enquiry as he deems fit and satisfying himself regarding the genuineness of the claim made by applicant pass an order issuing a caste certificate or, as the case may be, an income and caste certificate in such form as may be prescribed, or rejecting the application.

(4) The Tahasildar shall follow such procedure as may be prescribed before passing the order under sub-section (3).

(5) The burden of proving that the candidate or his parent or guardian belongs to Scheduled

Castes, Scheduled Tribes or other Backward
Classes shall be on the applicant.”

31. Sub-section (1) of Section 4A of the Act entitles a candidate or his parent or guardian belonging to the scheduled caste or scheduled tribes to make an application to the Tahsildar in such form and in such manner as may be prescribed for the issuance of a caste certificate.

32. Sub-section (3) of Section 4A of the Act provides that the Tahsildar, on receipt of such an application for a caste certificate, is required to pass an order either granting the caste certificate or rejecting the application after holding such an enquiry as he deems fit and after satisfying himself as to the genuineness of the claim made.

33. A plain reading of Sub-section (5) of Section 4A indicates that the burden of proof that a candidate or his parent or guardian belongs to the scheduled caste, the scheduled tribes or the other backward classes rests on the applicant. Sub-section (3) of Section 4A of the Act provides that the Tahsildar, on receipt of such an application for a caste certificate, is required to pass an order either granting the caste certificate or rejecting the application after holding

such an enquiry as he deems fit and after satisfying himself as to the genuineness of the claim made.

34. Section 4B of the Act provides for an appeal against the said decision of the Tahsildar under Section 4A(3) to the Assistant Commissioner. Section 4C of the Act provides for the constitution of a Verification Committee to verify the caste certificate issued under Section 4A or 4B of the Act. Sub-section (3) of Section 4C requires the Verification Committee to either grant a validity certificate in the prescribed form or to reject the application for the grant of a validity certificate after holding such an enquiry as it deems fit. Section 4D of the Act provides for an appeal against the order of the Verification Committee passed under Section 4C of the Act.

35. Section 4F of the Act empowers the Deputy Commissioner to call for and examine the records relating to any decision made by the Tahsildar under Section 4A of the Act or the Assistant Commissioner under Section 4B of the Act to satisfy himself as to the legality and propriety of such decision and to modify, annul or revise any order passed under Section 4A and 4B of the Act. The Deputy Commissioner is also empowered to remit the same for reconsideration. Section 4E of the Act posits that the Tahsildar and

the Verification Committee have the powers of the Civil Court under the Code of Civil Procedure, 1908 in the matter of summoning; examining on oath; discovery and production of any document; receiving evidence on affidavits, requisitioning any public record; issuing commissions for examination of witnesses; and, other matters that may be prescribed.

36. Rule 3A of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment Etc.) Rules, 1992 [**“Rules”**] *inter alia* provides that every application for caste certificate shall be in the prescribed form and will be accompanied by such document and other material in support of the claim². As per Rule 3A(3) of the Rules, if the Tahsildar is not satisfied with the correctness of the information, document or other materials provided by the applicant, the Tahsildar is required to hold an enquiry to verify the correctness of the information, document or other materials. Rule 3A of the Rules is set out below:

3A. Issue of Caste Certificate and Income and Caste Certificate:-

(1) Every application for Caste Certificate or Income and Caste Certificate under section 4A shall be in forms A,B or C as may be appropriate accompanied by such document and other materials in support of the claim.

² Rule 3A(1) of the Rules

(2) On receipt of the application, the Tahsildar shall verify the information, documents and such other materials furnished by the applicant and on such verification if he is satisfied with the correctness of the information, documents and evidence furnished by the applicant, he shall issue caste certificate or income and caste certificate in forms D E or F as may be appropriate within two months from the date of receipt of the application.

(3) Where the Tahsildar is not satisfied with the correctness of the information. Documents or other materials furnished by the applicant he shall then proceed to hold enquiry as follows:

(a) The Tahsildar shall fix the date of enquiry and issue notice to the applicant to appear on the date so fixed along with all documents and other materials, which he desires to produce.

(b) During the course of enquiry he shall examine the school records. Birth registration certificate, if any and such other relevant records. He shall examine the applicant if he is present and may also examine the parent / guardian of the applicant and any other person who has the knowledge of the social status of the applicant and parent / guardian.

Provided that in the case of an applicant who belongs to the Scheduled tribes, the Tahsildar shall also take into account the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies and such other matters.

(c) The Tahsildar shall also cause to be issued a public notice by beat of drum or any other convenient mode in the village or locality to which the applicant and his parent/guardian belongs. If in response to such notice or otherwise any person or association opposes the claim of the applicant such person or association shall also be given an opportunity to produce evidence during the enquiry.

(d) The Tahsildar may require the assistance of any officer for the purpose of satisfying himself regarding the genuineness of the claim made by the applicant.

(e) Where the applicants or parents/ guardians are inhabitants in an area which is not within the territorial jurisdiction of the Tahsildar, he may make a reference to the District Social Welfare Officer concerned in the case of persons belonging to the Scheduled Castes and Scheduled Tribes or to the District officer of Backward Classes, in the case of persons belonging to the Backward Classes to provide such professional assistance as available with them.

(f) The Tahsildar may also call for further information, document or material if he deems it necessary.

(g) The Tahsildar may after holding the enquiry in the manners specified above either issue caste certificate or income and caste certificate in Forms D, E or F as may appropriate or reject the claim within a period of two months, from the date receipt of the application.”

37. Similarly, Rule 7 of the Rules also provides for the conduct of an enquiry by the Caste Verification Committee. The said Rule is set out below:

“7. Issue of Validity Certificate:- (1) After getting a report on a reference made under rule 6A the Caste Verification Committee and the Caste and Income Verification Committee shall hold and enquiry after giving opportunity to the parties concerned.

(2) The Committee may examine school records, birth registration certificate if any and such other relevant materials and may also examine any other person who has the knowledge of the community of the applicant.

Provided that in case of an applicant who belongs to the Scheduled Tribes, the Committee may also examine the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies and such other matters.

(3) If on such enquiry the committee finds that the applicants claim is genuine it may issue the certificate sought for, in form I-A, but where the committee finds that the applicant obtained the caste certificate or income and caste certificate by making a false representation, it shall pass an order rejecting the application indicating the reasons there of for such refusal. An order under this sub-rule shall be passed within one month from the date of receipt of the application.

(4) Where the Committee even after the enquiry referred to in sub-rules (2) and (3) finds that the claim is doubtful and is not opposition to come to a conclusion it shall refer the matter to the Directorate of Civil Rights Enforcement for detailed investigation and report. On receipt of the report from the Directorate of Civil Rights Enforcement, the Committee shall dispose off the case on merit, after holding such enquiry as it deems fit and after giving the applicant an opportunity of being heard. An order under this sub-rule shall be made within one month from date of receipt of the application.

(5) Any person aggrieved by an order of the Caste Verification Committee or caste and income Verification committee may appeal to the Divisional Commissioner. The [~Divisional Commissioner] shall after giving an opportunity of being heard to both the parties pass such order as he deems fit within forty five days from the date of filing of such appeal.”

38. In this context, we may now examine the evidence and the material referred to by the DCVC.

39. First, the DCVC noted that in the earlier round, the Tahsildar had rejected the appellant's claim that he belongs to the *Budga Jangam* caste. The appellant filed an appeal against the said decision of the Tahsildar, which was also rejected.

40. Second, the appellant had also filed a suit seeking a similar relief, which was dismissed. The appeal preferred by the appellant against the said decision was also dismissed.

41. Third, DCVC considered the fact that the appellant's caste was recorded as '*Byragi*' in the school records. According to the appellant, his parents erroneously stated that their caste is '*Byragi*'. It is also contended that the school authorities had, based on the attire of his parents, recorded their castes as '*Byragi*'. However, the DCVC did not accept the contention and also noted that the Transfer Certificate (TC) of the appellant mentioned his caste as Byragi and neither the appellant nor his parents had raised any objection at the material time. The appellant's contention that the school records have no evidentiary value is unmerited. Whilst the probative value of the caste recorded prior to the issuance of the Presidential Order has a high probative value, the evidentiary value of entries recorded thereafter is lower. However, it is erroneous to

suggest that the entries made in the school record have no probative value.

42. There is no evidence or material on record to substantiate that the appellant had, at any time prior to 2008, claimed to belong to the scheduled caste category. Concededly, the appellant had not challenged the recording of his caste as 'Byragi' in the school records.

43. Fourth, DCVC noted that the family members of the appellant, that is, Gangadharaiah (the father-in-law of the appellant); Govindu (the great grandfather of the appellant); Gangireddy and Anjanappa (uncles of the appellant); D. Nagraj (paternal uncle of the appellant); Lachchiram (grandfather of the appellant); Babaiah (maternal uncle of the appellant); Kullayappa (uncle of the appellant); Chinnagopalu (uncle of the appellant), had voluntarily given their castes as '*Byragi*' and none of the contemporaneous documents mentioned their castes as '*Budga Jangam*'.

44. Fifth, during the course of the enquiry on 31.07.2021, DCVC as was then constituted, visited the Kottur village and submitted its report. The report indicates that it examined several individuals, of whom four declared themselves members of the 'Jangam' caste.

However, none of them claimed to have availed any benefits meant for the scheduled castes. They also stated that the *Budga Jangam* community is also known as *Kondamama*, *Jangam*, *Jangalu*, *Jangala*, *Sanyasi*, *Hagaluveshadhari*, and *Byragi*. They also stated that there was no documentary proof of the appellant obtaining a caste certificate. They also categorically stated that neither any person in the said village nor the neighbouring village had obtained verification of the '*Budga Jangam*' caste certificate.

45. Sixth, the DCVC referred to the Kolar Gazettier. The said Gazettier mentioned that in Mulbagal taluk of Kolar district '*Budga*' caste is also known as *Malasanyasi* and *Byragi*. The witnesses had clearly stated that persons of *Budga Jangam* community are also called as *Byragi*, *Jangala* and *Sanyasi*.

46. Seventh, the DCVC noted that the sale deeds in respect of the immovable properties transacted by persons related to the appellant also clearly stated that their caste was *Byragi*, and none of the documents reflected that the said persons belonged to the scheduled caste category. Thus, by the very own assertions of the appellant's immediate family members, the appellant would not belong to the scheduled caste category.

47. Additionally, the DCVC noted that there was no evidence that the appellant's parents had migrated to Kolar. In this regard, it is important to note that the history of the *Budga Jangam* caste being declared a scheduled caste is relevant. Initially, the said caste was declared as a scheduled caste in three districts, Gulbarga, Bidar and Raichur, after the reorganisation of states. However, by a notification dated 27.07.1977, the said declaration was extended to the entire State. Undisputedly, this was on the assumption that persons belonging to the *Budga Jangam* caste may have migrated to other parts of the State of Karnataka. There is no material on record that the parents of the appellant had migrated to Kolar.

48. We may also examine as to the manner in which DCVC had appreciated the material evidence relied upon by the appellant. First, he stated that certain rituals identify them as members of the *Budga Jangam* community. He stated that their deity is Shakti Davaru and Maramma. Second, he had produced photographs of marriage ceremonies, which he claimed reflected that the ceremonies were conducted according to the rituals followed by the *Budga Jangam* community. Third, he also relied upon certain affidavits, which were produced in the proceeding pertaining to Election Petition. Fourth, he had referred to the evidence of one Sri

Sheshappa, President of Karnataka Rajya Budaga Jangam Kshemabhivruddi Sangha, who submitted that the appellant belongs to the *Budga Jangam* caste. The DCVC found that Sri Sheshappa belonged to the *Bavacha* caste (Scheduled Tribes), and his daughter married the appellant's brother, which was an inter-caste marriage. Thus, his evidence was not accorded much weight. Insofar as the photographs of the marriage ceremony by the appellant are concerned, the DCVC noticed that the bridegroom had worn "basinga" and accepted that the same was not a part of the attire of a bridegroom that belonged to the *Budga Jangam* community. The affidavits furnished were not granted much evidentiary value, considering that they form part of the selective material from the record of the Election Petition. The evidence presented in the said petition was examined, and the appellant's claim that he belonged to *the Budga Jangam* community was rejected. The DCVC also noted that the statements and evidence of the appellants, relatives belonging to the *Budga Jangam* caste, could not be accepted because none of them had obtained a certificate of verification of their caste, nor had any of them availed of any benefits available for the said community. The appellant's parents also had never held themselves to be belonging to the

Budga Jangam community and had not availed of any benefits extended to the scheduled castes.

49. In the aforesaid circumstances, the appellant's contention that the DCVC had ignored material evidence is unmerited.

50. The DCVC as well as the learned Single Judge rightly held that it was not open for the authorities or the Court to accept the appellant's claim of belonging to a scheduled caste category on the basis that *Budga Jangam* community was also known as *Byragi*, *Jangala*, *Sanyasi*, *Hagalu Veshadri* and *Malasanyasi*. Admittedly, *Byragi* has been notified as a backward class falling in Category-I. The *Byragi* caste is not a scheduled caste. Thus, it is not open for the DCVC or the authority to proceed on the basis that a person belonging to the *Byragi* community can also be considered as a person belonging to the *Budga Jangam* community.

51. In **State of Maharashtra v. Milind & Ors., (2001) 1 SCC 4**, the Supreme Court had observed as under:

"12. Plain language and clear terms of these articles show (J) the President under clause (1) of the said articles may with respect to any State or Union Territory and where it is a State, after consultation with the Governor, by public notification Specify the castes, races or tribes or parts of Or groups within the castes, races or tribes which shall for the purposes of the

Constitution be deemed to be Scheduled Castes/Scheduled Tribes in relation to that State or Union Territory as the case may be; (2) under clause (2) of the said articles, a notification issued under clause (1) cannot be varied by any subsequent notification except by law made by Parliament. In other words, Parliament alone is competent by law to include in or exclude a caste/tribe from the list of Scheduled Castes and Scheduled Tribes specified in notifications issued under clause (1) of the said articles. In including castes and tribes in Presidential Orders, the President is authorised to limit the notification to parts or groups within the caste or tribe depending on the educational and social backwardness. It is permissible that only parts or groups within them be specified and further to specify castes or tribes thereof in relation to parts of the State and not to the entire State on being satisfied that it was necessary to do so having regard to social and educational backwardness. The States had opportunity to present their views through Governors when consulted by the President in relation to castes or tribes, parts or groups within them either in relation to the entire State or parts of State. It appears that the object of clause (1) of Articles 341 and 342 was to keep away disputes touching whether a caste/tribe is a Scheduled Caste/Scheduled Tribe or not for the purpose of the Constitution. Whether a particular caste or a tribe is Scheduled Caste or Scheduled Tribe as the case may be, within the meaning of the entries contained in the Presidential Orders issued under clause (1) of Articles 341 and 342, is to be determined looking to them as they are. Clause (2) of the said articles does not permit any one to seek modification of the said orders by leading evidence that the caste/Tribe (A) alone is mentioned in the Order but caste/Tribe (B) is also a part of caste/Tribe (A) and as such caste/Tribe (B) should be deemed to be a Scheduled Caste/Scheduled Tribe as the case may be. It is only Parliament that is competent to amend the Orders issued under Articles 341 and 342. As can be seen from the entries in the schedules pertaining to each State whenever one caste/tribe

has another name it is so mentioned in the brackets after it in the schedules. In this view it serves no purpose to look at gazetteers or glossaries for establishing that a particular caste/tribe is a Scheduled Caste/Scheduled Tribe for the purpose of Constitution, even though it is not specifically mentioned as such in the Presidential Orders. Orders once issued under clause (1) of the said articles, cannot be varied by subsequent order or notification even by the President except by law made by Parliament. Hence it is not possible to say that State Governments or any other authority or courts or Tribunals are vested with any power to modify or vary the said Orders. If that be so, no inquiry is permissible and no evidence can be let in for establishing that a particular caste or part or group within tribes or tribe is 'included in Presidential Order if they are not expressly included in the Orders. Since any exercise or attempt to amend the Presidential Order except as provided in clause (2) of Articles 341 and 342 would be futile, holding any inquiry or letting in any evidence in that regard is neither permissible nor useful."

52. In our view, the learned Single Judge had rightly held that it would not be open for the courts to accord equivalence to any other communities as referred to in the Presidential Order. The said question is squarely covered by the Supreme Court's decision in **Milind** (*supra*).

53. In view of the above, there are sufficient grounds and material on record supporting the DCVC's conclusion that the appellant belongs to the *Byragi* community and not the *Budga Jangam* community.

54. Before concluding, we may also add that there is a serious allegation of obtaining a false caste certificate against the appellant. There is no dispute that the appellant applied for a caste certificate in 2008, which was rejected. The appellant's appeal against the said decision was also rejected. Notwithstanding the same, the appellant has produced another caste certificate dated 03.04.2012, purportedly issued in pursuance of his application in 2012. However, the Tahsildar had issued an endorsement clearly stating that the caste certificate had been issued by misusing the computer at the Tahsildar's office and that there is no record of its issuance. As rightly observed by the learned Single Judge, it is open for the State to consider initiating appropriate proceedings in this regard.

55. The appeal is dismissed with the aforesaid observations.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

AHB/KPS.