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**(1998) 03 AHC CK 0029**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 33053 of 1995**

Ashok Kumar Gaur

APPELLANT

Vs

Uttar Pradesh Financial Corporation and Others

RESPONDENT

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**Date of Decision :** 04-03-1998

**Acts Referred:**

Constitution of India, 1950 — Article 311

**Citation :** (1999) 3 LLJ 921 : (1998) 3 UPLBEC 1980

**Hon'ble Judges :** R.R.K. Trivedi, J; R.K. Mahajan, J

**Bench :** Division Bench

**Advocate :** Amar Nath Srivastava and Pankaj Kumar Srivastava, for the Appellant; C. Prakash and V.B. Singh, for the Respondent

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## Judgement

1. Heard learned counsel for petitioner and Shri V.B. Singh, learned counsel for respondent Nos. 1 to 3.

2. Facts giving rise to this petition are that petitioner was appointed at Manager (Finance) in U.P. Financial Corporation by order dated December 5, 1986 on the basis of certificate dated February 20, 1985 showing him as belonging to Scheduled Caste category. This certificate was issued by Tahsildar, Duddhi, District Mirzapur. Subsequently, it was found that the certificate submitted by the petitioner was not correct and he got employment on the basis of a forged certificate. Consequently, by the impugned order dated November 6, 1995, petitioner was dismissed from service, aggrieved by which this petition has been filed. It has also come on record that petitioner filed Civil Suit No. 822 of 1995 for declaration that he belongs to Scheduled Caste (Gond) category. The suit, as stated by the learned counsel for the petitioner, is still pending. However, an application has been filed by petitioner to withdraw the suit.

3. From the facts narrated above it is clear that the question in dispute is as to whether petitioner belongs to caste Gond which is mentioned as a caste in the Schedule. Hon'ble Supreme Court in case of Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, has laid down the

procedure for issuance of social status certificate, their scrutiny and their approval. The procedure laid down is as under at page 102 of AIR:

"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 Schedule 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 Office, 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 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. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate, his 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 acknowledgment 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 a 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 an 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 Art. 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 acknowledgment 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."

4. In our opinion, to resolve the question as to whether the certificate dated February 20, 1985 submitted by the petitioner before the respondents to secure employment was genuine or not, an inquiry has to be held in accordance with the procedure provided by Hon"ble Supreme Court in the above judgment, and the order of dismissal passed against the petitioner should be subject to the result of the said inquiry.

5. For the reasons stated above, this petition is disposed of finally with liberty to the petitioner to make an application before the appropriate authority which shall

ensure an inquiry in terms of the directions given by Hon"ble Supreme Court. Such inquiry must be completed within the time frame fixed by Hon"ble Supreme Court. The order of dismissal dated November 6, 1995 shall be subject to the result of the inquiry. If the certificate is found genuine, the petitioner shall be entitled to be reinstated on the post.