
(2020) 05 GAU CK 0010
In the Gauhati High Court
Case No : Writ Petition (C) No. 819 Of 2018

Dr. Mrinal Das

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 13-05-2020

Acts Referred:

Citation : (2020) 05 GAU CK 0010

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : K N Choudhury

Final Decision : Disposed Off

Judgement

1. Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Ms. M. Bhattacharjee, learned Additional Senior Govt. Advocate appearing for the respondents No. 1 to 5. None appears for the respondent No.6.

2. The petitioner who was appointed as a Senior Medical Officer (Surgery) in Grade-C in Oil India Limited, Duliajan, Assam on 05.08.2011 was subsequently promoted as Deputy Superintendent Medical Officer (Surgery) by the order of 02.01.2015 and subsequently again promoted to the post of Superintending Medical Officer (surgery) on 02.01.2017. An issue had subsequently arisen whether the schedule caste certificate based on which the petitioner was given employment is a genuine and acceptable certificate or not. In the resultant process, the petitioner was issued a notice dated 01.02.2018 by the Assistant Commissioner, Dibrugarh requiring him to appear in the office chamber along with all necessary document for hearing on the allegation that the schedule caste certificate issued to him was a false document. The petitioner by his communication dated 01.02.2018 requested that as he is a resident of another district and as all the documents are not available with him and as such some further time be granted for hearing. In a situation, the Assistant Commissioner issued the notice dated 03.02.2018 again requiring the petitioner to appear in

office chamber on 05.02.2018. The petitioner made another communication dated 06.02.2018 to the Assistant Commissioner, Dibrugarh stated that the certificate issued to him was issued in the year 1991 and duly counter signed by the Sub-divisional Officer (Civil) Bajali and the authenticity of the certificate copy can be verified from the official records. For the purpose, he had also transmitted certain judgment of the Supreme Court and the High Court which the petitioner claims to be relied upon.

3. In the circumstance, another notice dated 09.02.2018 was issued requiring the petitioner to appear in the office chamber of the Assistant Commissioner on 05.03.2018. All the three notices are being assailed in this petition and at the time when the petition was moved, the ground taken was that the Assistant Commissioner was not competent to arrive at its decision whether the schedule caste certificate issued to the petitioner was a genuine certificate and as per the provision laid down by the Supreme Court in *Kumari Madhuri Patil and Another - vs- Addl. Commissioner, Tribal Development and Others* reported in (1994) 6 SCC 241, it is the caste scrutiny committee alone who would be competent to go into such question as regards determining the authenticity of the caste certificate issued to the petitioner. The Supreme Court in *Kumari Madhuri Patil* (supra) in paragraph 13(4) has provided as follows:-

"4. All the State Government 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."

4. Apparently, a reading of paragraph-13 shows that whenever a question arises as to the genuinity of the caste certificate produced by a person there is a requirement for the authorities to arrive at a proper conclusion as to whether such caste certificate is a genuine certificate issued by the competent authority or the certificate relied upon would be unacceptable.

5. For the purpose of streamlining the procedure as how the genuinity of a caste certificate can be arrived at, the requirement of paragraph 13(4) had been laid down, as extracted above, which speaks of a committee comprising of three officers being an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, the Director, Social Welfare/Tribal Welfare/Backward Class Welfare as the case may be and in case of schedule caste another officer who has intimate knowledge in the verification and issuance of social status certificate.

6. a reading of the provision of paragraph-13(4) obviously leads us to a conclusion that it is the committee contemplated under paragraph-13(4) as

indicated above, which would be competent to determine as to whether the caste certificate produced by a person would be a genuine and acceptable certificate. But at the same time, when we go through the notices issued by the Assistant Commissioner, it is discernible that the said enquiry is only a temporary enquiry for the satisfaction of the Assistant Commissioner whether complaints lodged against the petitioner as regards the genuinity of his caste certificate are required to be enquired into or not. For the purpose of the temporary enquiry, the petitioner is merely called for hearing. We see no reason as to why the said notices are required to be interfered with or the process of temporary enquiry be struck down.

7. Accordingly, from the said point of view, we do not find any merit in the petition to interfere with the notices as indicated above. Further we provide that as it is only the committee who is alone is competent to determine the genuinity of the caste certificate, in the event, the Assistant Commissioner after making temporary enquiry arrives at its conclusion that the caste certificate of the writ petitioner may not be a genuine certificate, the requirement of law would for the Assistant Commissioner to refer the dispute to the expert committee constituted for the purpose as required in paragraph 13(4) of *Kumari Mahuri Patil*(supra). In the event, the Assistant Commissioner arrives at conclusion that no enquiry is required, appropriate order may be passed.

8. accordingly, we require the Assistant Commissioner, Dibrugarh to issue fresh notice to the writ petitioner stating the date and time for his appearance as notified in the earlier notices. Upon such notice being issued, the petitioner shall appear before the Assistant Commissioner on the relevant date and in the event, a conclusion is arrived which may go against the petitioner, the dispute be referred to the expert committee constituted under paragraph 13(4) of *Kumari Madhuri Patil* (supra).

9. Writ petition is accordingly disposed of.