

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12531 of 2014 (O&M)

Dr. Munish Malik ...Petitioner

Versus

State of Punjab and others ...Respondents

1	The date when the judgment is reserved	14.07.2026
2	The date when the judgment is pronounced	04.08.2026
3	The date when the judgment is uploaded on the website	04.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Amit Jhanji, Senior Advocate, with
Mr. Sahil Shehrawat, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Mr. Sumeet Mahajan, Senior Advocate, with
Mr. Shrey Sachdeva, Advocate,
Ms. Mivakshu, Advocate,
Ms. Harpreet Kaur, Advocate, for respondent no.5.

TRIBHUVAN DAHIYA, J.

The petition has been filed seeking a writ of *certiorari* setting aside the order dated 17.01.2014, Annexure P-18, passed by the second respondent/Chairman, State Scrutiny Committee, whereby the Scheduled

Caste certificates, dated 09.10.1985 and 01.06.1987, Annexures P-1 and



P-3, respectively, certifying that the petitioner belongs to a Scheduled Caste, have been cancelled.

2. Facts of the case in brief are, the petitioner, who claimed to be from Barar community recognised as a Scheduled Caste (SC) in the Constitution (Scheduled Castes) Order 1950, was issued a certificate to that effect by the Tehsildar, Jalandhar, dated 09.10.1985; another certificate to the same effect was issued to him by the District Welfare Officer, Jalandhar, dated 01.06.1987. He applied for and was issued a route permit by the State Transport Commissioner, Punjab, under the SC category, for plying bus from Jalandhar to Batala in 1988. Another contender for the same permit, i.e., the fifth respondent/Mohali Bus Service through its partner Mohinder Singh, challenged the grant of permit to the petitioner. The State Transport Appellate Tribunal considered his appeal and held that grant of permit was valid. Nursing a grudge against the petitioner, the fifth respondent filed a civil suit before the Civil Judge (Senior Division) for declaration, dated 29.04.2002, Annexure P-4, questioning his SC status; proceedings in the suit were later stayed by this Court vide order dated 12.08.2010, passed in Civil Revision No.2586 of 2008.

2.1. The fifth respondent still persisted with the matter and filed numerous complaints/applications before police and other authorities from 26.01.2008 to 07.12.2011, alleging that the SC certificates had been wrongly issued to the petitioner as he was not from a scheduled caste. All the complaints were found false after inquiries, and filed/consigned to records by the authorities concerned. The details of these complaints find mention in the inquiry report, dated 13.06.2012, Annexure P-13, submitted by SHO, Police Division No.1, Commissionerate Jalandhar, concluding that the



allegations levelled against the petitioner could not be proved; the relevant extract of the report mentioning the earlier complaints and its own conclusion reads as under:

Except this the under mentioned applications filed by Mohinder Singh at different places which were later on dismissed after inquiry.

1. Mohinder Singh filed application dated 26-1-2008 no. 174PTN before the SSP Jalandhar and the inquiry of which was conducted by police chownki Nangal Shama Jalandhar and on dated 8-4-2008 dismissed the application being false.
2. Thereafter application NO. 649 PTOO dated 9-4-2009 and after that dated 13-8-2002 and dated 18-8-2009 different applications by given to the SSP Jalandhar and the SSP Jalandhar got inquiry through DSP Rural -II and also got legal opinion from D.A. Legal and all the applications were found to be false and baseless and dismissed.
3. Thereafter one more application was given to D.C. Jalandhar in which inquiry was made by concerned patwari; Tehsildar / SDM-I and the caste Barar of Munish Malik was certified.
4. Thereafter one application was moved to the State Transport Commissioner Punjab Chandigarh and the inquiry of the same was conducted by Secretary Regional Transport Authority Jalandhar on dated 16-8-2011 and this application also found false and baseless and ultimately dismissed.
5. Sh. Munish Malik given one application No. 2742 PTN dated 28-7-2011 to Commissioner Jalandhar upon which the inquiry was conducted by ACP Central and got DA Legal opinion and all the application moved by Mohinder Singh s/o Kesar Singh were found wrong and false and baseless and order was passed against Mohinder Singh to take action u/s 182 IPC.
6. Thereafter one more application and on a complaint Deputy Commissioner organized one committee in which SDM-I and District Welfare Officer conducted inquiry vide No.



DWO 1322 dated 24-10-11 and the caste Barar of Munish Malik was certified.

7. Mohinder Singh moved one more application no. 2938 peshi I dated 20.10.11 to the Commissioner police Jalandhar the inquiry of which was conducted by ADC (Traffic) which was also found false and dismissed on 10-12-11.
8. Mohinder Singh moved one more application no. 3462, pesi -1 dated 7-12-11 to the Commissioner Police Jalandhar which was himself dismissed by the Commissioner on dated 10-12-11.

From my investigation and inquiry I found by Munish Malik belongs to Barar Caste. This caste related to Scheduled Caste category. Munish Malik for obtaining the Scheduled Caste certificate moved an application no 2315 dated 1-6-1987 to the District Welfare Officer Jalandhar the same was certified by Sh. Gian Singh Kahlon Sarpanch Dakoha District Jalandhar and Darshan Singh Kay Pee Ex. MLA Jalandhar according to rule and after complete inquiry vide letter no. 2927 dated 1-6-1987 the District Welfare Officer issued Scheduled Caste certificate Munish Malik upon which counter signed were made by GA to DC Jalandhar. During inquiry the area of Dakoha Sh. Balbir Singh Dhillon Councillor s/o Sh. Harminder Singh Dhillon r/o Village Dhillwan PO Dakoha Jalandhar and Sh. Jagdish Kumar son of Sh. Haryal Singh r/o 155, Dakoha Jalandhar. Ex. Councillor and present Numberdar the statement of which were recorded and this fact came to know that Munish Malik belongs to Barar caste which comes in the category of Scheduled Caste in this manner on inquiry the allegations levelled in the application are not proved.

- 2.2. Despite closure of all the aforementioned complaints on finding no substance in the allegations levelled against the petitioner concerning his SC certificates, another inquiry was instituted against him on the complaint



Classes Welfare Department/third respondent. The petitioner received a notice dated 20.04.2012, Annexure P-14, that an inquiry into the complaint against his SC status would be conducted on 27.04.2012 at 12.00 noon by the vigilance committee as per directions issued by the Punjab Government, Welfare Department, vide memo no.9/12/2003-R.C.C/1606, dated 10.01.2004. He was asked to come at the appointed time to present his case. The petitioner went to the said office with reply dated 27.04.2012, Annexure P-15, and was handed over a copy of the memo dated 23.04.2012, Annexure P-16, whereby the Deputy Commissioner, Jalandhar, had been directed to cancel the SC certificate issued to him.

2.3. The petitioner immediately challenged the said memo, dated 23.04.2012, on the ground of violating the Principles of Natural Justice by filing a writ petition before this Court, CWP No.8165 of 2012. The Court found that the order had been passed prior to 27.04.2012, the date when the petitioner was to present his case; it was accordingly set aside vide order dated 22.11.2013, directing the State Level Scrutiny Committee (SLSC) to decide afresh after affording due opportunity of hearing to the petitioner before taking its final decision. In compliance thereof, the committee considered the petitioner's case and passed the impugned order, dated 17.01.2014, cancelling both the certificates regarding his SC status, dated 09.10.1985 and 01.06.1987, by observing as under:

7. That in this connection, meeting of the Scrutiny Committee was held on 8.1.2014, in which both the certificates i.e. certificate No. 5021 dated 9.10.1985 of Scheduled Caste (Bard, adharmi and Rawat) and certificate no. 2927 dated 1.06.1987 issued by District Welfare Officer, were found false.

8. That in the meeting of the Scrutiny committee held on 08.01.2014, both the certificates issued to Sh. Manish Malik i.e.



Scheduled Caste Certificate No. 5021 dated 9.10.1985 and No. 2927 dated 1.06.1987 are cancelled as the same were found false.

9. As per Notification No. 9/12/2003-B1/759 dated 12.09.2011 of the Welfare Department (Reservation Cell), Govt. of Punjab, all the concerned offices, offices and establishments be written to take further necessary action keeping in view the cancellation of certificates of Scheduled Caste.

2.4. The petitioner approached this Court challenging the aforementioned order by filing the instant petition, and interim stay was granted vide order dated 07.08.2014.

3. In this factual background, learned senior counsel for the petitioner contended that the order is *per se* illegal being violative of the Principles of Natural Justice; it is non-speaking as no reason has been assigned for cancelling the certificates in question. None of the issues raised by the petitioner, including the earlier inquiries' which found that the petitioner had rightly been issued the SC certificates, has been considered. In support of the contention, he has relied upon the Supreme Court judgment in *Punjab State Electricity Board and others v. Jit Singh*, (2009) 13 SCC 118, holding that fair play requires recording precise and cogent reasons when an order affects rights of a citizen. The order, therefore, deserves to be set aside and the matter should be remitted to the authorities for fresh consideration in accordance with law. *Secondly*, he contended, though the petitioner had filed a civil suit no.CS/138/14, Annexure R-5/3, before the Civil Judge (Senior Division), Jalandhar, seeking declaration that the cancellation of SC certificates by the SLSC vide order dated 17.01.2014 was null and void, and the suit was withdrawn without seeking liberty to avail any other remedy on 12.02.2014, he would still be entitled to maintain the instant petition. It is



because in terms of the law laid down by the Supreme Court in *Dayaram v. Sudhir Batham and others*, (2012) 1 SCC 333, no suit or other proceedings are maintainable against an order passed by the SLSC, and the only remedy is to file a petition under Article 226 of the Constitution.

4. *Per contra*, learned senior counsel for respondent no.5 has taken preliminary objection to maintainability of the petition on the ground that there is concealment of material facts by the petitioner. He approached this Court without disclosing that he had earlier gone to the Civil Court on the same cause of action by filing the aforementioned suit for declaration, and the same was unconditionally withdrawn by him. Accordingly, the petition is not maintainable. The Supreme Court judgment in *State of Orissa and another v. Laxmi Narayan Das (Dead) Thr. Lrs and others*, (2023) SCC OnLine SC 825, was referred to in this regard. He further contended that the petitioner obtained the SC certificates by playing a fraud on the authorities, and the same were rightly cancelled vide the impugned order. It stands established on record by way of admission form submitted by the petitioner for taking admission in Class IX in the Government Model Higher Secondary School, Jalandhar, dated 08.05.1982, Annexure R-1, as also the birth certificate issued to his brother, dated 24.05.1979, Annexure R-2, that he is not a scheduled caste, but Hindu Khatri.

5. Submissions made by learned counsel for the parties have been considered.

6. The maintainability of the petition is to be considered first. It remains undisputed that after cancellation of petitioner's SC certificates, dated 09.10.1985 and 01.06.1987, vide order dated 17.01.2014, he filed a civil suit, CS/138/14, seeking declaration that the order was illegal, null and



void, which was withdrawn by making a statement, Annexure R-5/4, before the Civil Judge (Junior Division) that he did not wish to pursue the same. The suit was, accordingly, dismissed as withdrawn and consigned to records vide order dated 12.02.2014, Annexure R-5/5. No permission to approach the High Court or institute any other proceeding was sought from the trial Court, nor granted. The instant petition has been filed for the same relief – to set aside the order dated 17.01.2014, without disclosing about the earlier suit and its dismissal. Accordingly, the petitioner is guilty of approaching this Court with unclean hands which disentitles him from maintaining the petition. The law to that effect is well settled and a reference can be made to *Laxmi Narayan Das* case *ibid.*, wherein the Supreme Court considered the issue - “(2) Maintainability of writ petition when the civil suit filed for same relief was withdrawn without liberty to file fresh one and on the concealment of material facts from the Court”, and concluded as under:

54. Considering the factual circumstances and the law laid down by this Court, the answer to the three issues framed in para no.22 is as under:

(i) xxx xxx

(ii) On the application of principle of constructive res judicata, the writ petition filed by the respondents after withdrawal of the civil suit was not maintainable as no liberty was granted. In case still filing of writ petition was to be justified, at least complete facts need to be disclosed for the purpose, which were missing. In the writ petition there was no mention regarding filing of civil suit earlier for the same relief and withdrawal thereof. A litigant can be non-suited in case he is found guilty of concealing material facts from the court or mis-stating the same. Hence, the respondents are not entitled to any relief.

(iii) xxx xxx



- 7. Since the petition has been held not maintainable, other arguments raised by learned counsel for the parties need not be considered.
- 8. Dismissed.
- 9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

04.08.2026
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No