
(2002) 09 MP CK 0064
In the Madhya Pradesh High Court
Case No : L.P.A. No. 31 of 2002

Goverdhanlal Mandiwal

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 19-09-2002

Acts Referred:

Citation : (2003) 2 MPLJ 510

Hon'ble Judges : N.K. Jain, J;Deepak Verma, J

Bench : Division Bench

Advocate : R.K. Jain, Pankaj Jain and I.C. Gangrade, for the Appellant; G. Desai and Pankaj Jain, for the Respondent

Judgement

N.K. Jain, J.

This appeal under Clause X of the Letters Patent of the High Court is directed against the Order dated 20-11-2001, passed by learned Single Judge of this Court in Writ Petition No. 2175/2001, dismissing appellant's petition challenging the order dated 24-8-2001, passed by the State Level Committee, constituted by the Government of Madhya Pradesh to examine the complaints regarding grant of caste certificates.

The appellant was initially appointed as Presiding Officer of Labour Court as a candidate belonging to Scheduled Caste. A certificate in that regard was granted to him by Tehsildar, Mahidpur. On the date of passing of the order dated 24-8-2001 by the said Committee, he was working as a Member Judge of the Industrial Tribunal. On a complaint made by respondent No. 3 - Smt. Laxmi Jain also a Presiding Officer of Labour Court, an enquiry was instituted as to the correctness of the caste certificate of the appellant. The Committee, after enquiry, by the said Order dated 24-8-2001, held that the appellant was not in fact a member of Scheduled Caste. The petitioner has unsuccessfully challenged the decision of the State Level Committee before the learned Single Judge and he is now before this Bench in Letters Patent Appeal.

Respondent No. 3 has filed application I.A. No. 831/2002, raising objection that in view of the law laid down by the Supreme Court in Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and others, , the present L.P.A. is not maintainable.

We have heard learned counsel for the parties and having given our anxious consideration to their contentions, we are of the view that the objection raised by respondent No. 3 deserves to be sustained and this appeal must fail as not maintainable.

It is not disputed that the State Level Committee which rendered the said decision dated 24-8-2001, has been constituted pursuant to the directions/guidelines made by the Supreme Court in the case of Madhuri Patil (supra). The Apex Court in para 12 has laid down various guidelines and made directions for the procedure to be followed for issuance of caste certificates both for the purpose of seeking admission in educational institutions and employment on public posts; for constitution of State Level Committee to enquire into the complaints as to the genuineness of these certificates as also for judicial review of the decision which may be rendered by the Committee. As regards the judicial review, following directions were made at Serial Nos. 11, 12 and 13:-

11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.

No suit or other proceedings before any other authority should lie.

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 Article 136.

It will be thus seen that the Apex Court not only laid down a complete Code for issuance of caste certificates and holding of enquires into the complaints against such certificates, but also provided for judicial review of the decisions that may be rendered in these matters to certain limitations. Finality was sought to be attached to the decisions which may be passed by the Committee but subject to their review by the High Court under Article 226 of the Constitution. Any other suit or proceedings before any Court or Authority was clearly barred. So also the appeal against the order of a Single Judge to the Division Bench of a High Court was also clearly prohibited. The only remedy prescribed against any such order was by way of Special Leave under Article 136.

The aforesaid decision was reiterated by the Apex Court in Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri and another, .

Shri G.M. Chaphekar, learned Senior Counsel appearing for the appellant has, however, strenuously argued that whatever said in the case of Madhuri Patil are mere guidelines and did not have the force of law so as to take away right of a

litigant to go in appeal under the Letters Patent against the order of Single Judge. This right, it is submitted, is a statutory right and cannot be defeated by mere observations in a judgment. In *Laveti (supra)*, the Apex Court while reiterating the guidelines issued in *Madhuri Patil*, expected the Government of India to bring about a uniform legislation with necessary guidelines and rules prescribing penal consequences on persons who flout the Constitution and corner the benefits reserved for real tribes etc. He thus submitted that in absence of any such legislation being brought either by the Union of India or by the State Government, the said guidelines cannot be said to have force of law much less a legal bar against filing of L.P.A., a right available to the appellant under the statute. We have given our anxious consideration to these arguments but could not agree with the same.

Article 141 provides that all courts in India are bound to follow the decision of the Supreme Court. The law declared by the Supreme Court shall be binding on all Courts within the territory of the India. Directions contained in the case of *Madhuri Patil* are not mere observations but constituted a complete Code for adjudication of matters relating grant of caste certificates. The Apex Court in unmistakable terms has attached finality to the decision made by the Committee in such matters and the only remedy provided for an aggrieved person was to approach the High Court under Article 226 of the Constitution. Jurisdiction of all other courts and authorities in the matters was expressly barred and so also any intra-court appeal against the decision of a Single Judge on a petition under Article 226, was also clearly prohibited. This Court under Article 141 has no option but to follow the decision of the Apex Court and this appeal should, therefore, fail as untenable.

We, thus, uphold the objection raised by respondent No. 3 and supported by the State - the respondent No. 1. The appeal is accordingly dismissed but without any order as to costs.