

(2020) 07 CHH CK 0008
In the Chhattisgarh High Court
Case No : M.C.C. No. 915 Of 2014

Sant Kumar Netam And Ors

APPELLANT

Vs

Ajit Pramod Kumar Jogi And Ors

RESPONDENT

Date of Decision : 15-07-2020

Acts Referred:

Chhattisgarh Scheduled Castes, Scheduled Tribes And Other Backward Classes
(Regulation Of Social Status Certification) Act, 2013 — Section 7, 7(1)
Indian Penal Code, 1860 — Section 35
Madhya Pradesh Land Revenue Code, 1959 — Section 165(6)
Code Of Criminal Procedure, 1973 — Section 234

Citation : (2020) 07 CHH CK 0008

Hon'ble Judges : Rajendra Chandra Singh Samant, J

Bench : Single Bench

Advocate : U.N. Awasthi, Raksha Awasthi, Rahul Tyagi, Gary Mukhopadhyay,
S.C. Verma, Ghanshyam Patel

Final Decision : Dismissed

Judgement

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Rajendra Chandra Singh Samant, J

1. This petition has been brought making a prayer to re-call the order dated 18.09.2013, passed by the Single Bench of this Court in W.P.(C) No.1282

of 2013.

2. Respondent No.1 Shri Ajit Pramod Kumar Jogi filed a W.P.(C) No.1282/2013 praying for issuance of various writs, challenging the vigilance

enquiry report dated 22.04.2013 and 22.06.2013. On 18.09.2013 Shri Yashwant Singh Thakur, Deputy Advocate General, representing the State and

other parties filed a submission on behalf of the State and other parties duly supported with an affidavit, stating that the State Government has decided

to withdraw the vigilance enquiry report dated 22.04.2013 and 22.06.2013 with an intention to conduct a fresh enquiry in terms of decision of the Apex

Court rendered in the matter of Ku. Madhuri Patil & Another Vs. Additional Commissioner, Tribal Development & Ors. reported in (1994) 6 SCC

241. On the basis of this submission, the Court observed that nothing survives in the petition for adjudication and the petition was disposed of.

3. Mr. U.N. Awasthi, Sr. Advocate appearing on behalf of the petitioners would submit that the petitioners in this case were a party in the case of

Collector Bilaspur Vs. Ajit Pramod Kumar Jogi ,which has been decided by the Supreme Court on 13.10.2011 (reported in AIR 2012 SC 44), in that

judgment the Supreme Court has considered on the claim made by the respondent No.1 that he belongs to a tribal community, which is known as

'Kanwar' which is a notified scheduled tribe. The case had been this, that respondent No.1 had obtained the caste certificate from the authorities and

had contested the parliamentary election as well as other elections. On complaint filed before the National Commission for Scheduled Caste and

Scheduled Tribes challenging the caste status of the respondent No.1, the commission made an enquiry and an order was passed on 16.10.2001, in

which it was held that ancestor of the respondent No.1 belonged to Satnami caste, which is a scheduled caste and that grand father of the respondent

No.1 had converted to Christianity, therefore, the respondent No.1 had no entitlement to take benefit of the status as certified in the caste certificate,

this report was challenged by respondent No.1. The Supreme Court allowed the petition in part in which the enquiry report of the Commission was

set-aside and direction was issued to the State Government to constitute a scrutiny committee for verification/screening of the social status certificate

issued to the respondent No.1. The Vigilance Cell of High Power Certification Scrutiny Committee (in short High Power Committee), which was

constituted by the State Government in accordance with the direction of the Apex Court in the case of Ku. Madhuri Patil's case (supra), completed

the enquiry and submitted report dated 22-23/04/2013. According to that report given by the Vigilance Cell, caste certificate issued to the respondent

No.1 was held to be doubtful in nature. The vigilance report so submitted was pending for consideration before the High Power Committee, then the

W.P.(C) No.1282 of 2013 was filed by the respondent No.1, in which, the petitioner No.1 was not made a party despite being the fact that he had

been the party before the Supreme Court in the matter of Collector Bilaspur Vs. Ajit Pramod Kumar Jogi (supra). It is submitted by learned Sr.

Counsel for petitioner that it was during the pendency of this writ petition for hearing, the submission was made by Shri J.K. Gilda, In-charge

Advocate General, on the basis of which, the impugned order dated 18.09.2013 was passed.

4. It is submitted that the In-charge Advocate General made a wrong and illegal submission, which was a concession without authority and instruction

given by the State. It is submitted that after the submission of report of Vigilance Cell, High Power Committee was bound to complete the enquiry

within a period of two months after completing the procedural formalities in accordance with the Ku. Madhuri Patil's case. It is submitted that order

dated 18.09.2013 was procured by playing fraud upon the Court. This Court was not apprised that once the matter was referred to the High Power

Certification Scrutiny Committee, which is itself a quasi judicial body incorporated under Section 7 of Chhattisgarh Scheduled Castes, Scheduled

Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (hereinafter referred to as the 'Act, 2013'), its proceeding

should not have been interfered with by the State. Secondly, the High Power Committee was making a compliance of the order of the Hon'ble

Supreme Court, therefore, the State had no authority to interfere and withdraw the report submitted by the Vigilance Cell.

5. It is submitted by the counsel for the petitioners that subsequent to the withdrawal of the report made by the impugned order, a fresh enquiry has

been conducted by the High Power Committee and enquiry report has been submitted. It is submitted that in W.P.(C) No.2104 of 2017, Division

Bench of this Court has delivered judgment dated 30.01.2018, in which it has been observed that direction issued by the Supreme Court in Collector,

Bilaspur Vs. Ajit Pramod Kumar Jogi (supra) , has to be strictly complied with and in conformity with the provisions of C.G. Scheduled Castes and

Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013. It is submitted that State had thus no authority

to withdraw the vigilance report, therefore, the authorization given, if any, is itself invalid. Secondly, it is argued that the State itself has not given any

authorization to the In-charge Advocate General, who made concession on behalf of the State unauthorizedly, inadvertently and illegally. It is

submitted that the communication dated 11.10.2019 from Department of Scheduled Castes and Scheduled Tribes, clearly states that the decision of the State Government on the basis of which the submission dated 18.09.2013 is claimed to be made before the Court, does not find verified from the office records. There is no document present and filed along with the submission to show that State Government had taken any such decision officially, hence, the impugned order was passed on the basis of such submission, which was itself incorrect and without authority, hence for this reason, the impugned order is fit to be recalled.

6. Counsel for the respondent No.1 submits that counsel representing a party, has authority to make concession of fact on the basis of the instruction given by a party. There is no such requirement that any Advocate General would have required of having instruction from State in writing. It is submitted that the petitioners are making a direct and serious allegation against the then Advocate General, who therefore is a necessary party in this case. It is submitted, that in the reply given by the respondent No.2, 3 and 4 the stakeholders from the State, submission made by the In-charge Advocate General on 18.09.2013 in W.P.(C) No.1282/2013 has been defended and it is stated in their reply that State had authority to give instruction as given in that case. The allegation against the Law Officer of the State has also been refuted in the reply that has been submitted by the Officer Incharge of the case and also it is supported by an affidavit of the Officer-In-charge. It is submitted that political scenario in this State has changed as the ruling party at present is different. Any decision taken by the erstwhile government can not be interfered with or changed by the subsequent government. Relying on the judgment of Supreme Court in case of Jayalalithaa & Ors. State of Karnataka & Ors., reported in (2014) 2 SCC 401. It is submitted that, the Supreme Court has observed that there is undoubted power with the Government to withdraw or revoke the appointment within Section 21 of the General Clauses Act, but that exercise of power appears to be vitiated in the present case by malafides in law as it is apparent on record that the switchover of the Government in between has resulted in a sudden change of opinion that is abrupt for no discernible legally sustainable reason. The sharp transitional decision was an act of clear unwarranted indiscretion actuated by an intention that does not appear to be

founded on good faith. It is further observed that the principles of governance have to be tested on the touchstone of justice, equity and fair play.

Again the Hon'ble Supreme Court in State of Haryana Vs. State of Punjab & Anr. , reported in (2002) 2 SCC 507, made this observation that in the

decision taken at the governmental level should not be so easily nullified by a change of Government and by some other political party assuming

power. It is submitted that the submission made by the In-charge Advocate General was proper, within his authority and in accordance with

instruction of the State Government. Therefore, that cannot be interfered with. Further the State had all the authority to give such instruction and such

instruction given was no where contrary to the direction of the Supreme Court in case of Collector, Bilaspur Vs. Ajit P.K. Jogi (supra).

7. It is further submitted that reasons for withdrawal of the vigilance report has been explicit because the respondent No.1 was not at all examined or

given any opportunity before the Vigilance Cell which made that report, therefore, it was clear violation of the direction of the Supreme Court given in

Ku. Madhuri Patil's case and also the direction of the Rules, 2013. Rule 20 (3) (e) was not complied with. It is further submitted that Rule 43 of the

High Court Rules requires that any application or petition has to be supported with an affidavit. The submission which was duly filed before the Court

on 18.09.2013 was signed by the Officer In- charge and also supported with an affidavit sworn by the Officer In-charge himself, who was working as

Deputy Director, Department of Tribal Welfare, Raipur and he was OIC of the case. Therefore, there is no reason to believe that the submission

made and the concession given by the learned Advocate General was without instruction and without authority. It is submitted that in case of Bajaj

Hindustan Limited Vs. State of Uttar Pradesh & Ors., reported in (2016) 12 SCC 61,3 word approval has been explained and the approval given by

the State Government in this case is similar. It is further submitted that although present communication from the Tribal Welfare Department mentions

that there is no document present to verify the concession given, is itself confusing, because there is no such statement made in the said

communication dated 11.10.2019 that such sanction was not given at all. It is further submitted, that reply that has been submitted by the State

defending the concession made on 18.09.2013 by the Law Officer of the State has not been withdrawn till date, therefore, there is no such admission

or statement made on behalf of the State that submission made by the State Government on 18.09.2013 was without authority and without instruction.

Therefore, the petition be dismissed.

8. Learned Advocate General appearing on behalf of the respondent No.2, 3 and 4 submits that according to the communication received from the

Joint Secretary, Department of Scheduled Tribe and Scheduled Caste, there is no document found with respect to the withdrawal of the vigilance

report, therefore, the application filed by the petitioners has not been opposed. It is further submitted that as the situation that has emerged after

correspondence dated 11.10.2019, the reply earlier submitted by the State can not be referred to. Prayer has been made for passing appropriate

orders.

9. In reply, it is submitted by the counsel for the petitioners that reply given by the respondent No.2, 3 and 4 has been specifically contradicted in the

rejoinder to the reply given by the petitioners. It is further submitted that it is a case of fraud played by In- charge Advocate General in the Court,

which is led to passing of impugned order. It is submitted that word fraud has been explained by the Supreme Court in case of Dr. Vimla Vs. The

Delhi Administration, reported in AIR 1963 SC 1572. According to the communication given by the department of Scheduled Castes and Scheduled

Tribes, no decision was taken at the departmental level with respect to the withdrawal of vigilance report. Therefore, it establishes clearly that it is a

case of fraud. It is submitted that in case of Dalip Singh V. State of U.P. & Ors., reported in AIR 2010 SC (Supp.) 116, the Supreme Court has

observed that 'materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do

not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the Court proceedings'. It is submitted that here it is a similar

case. It has been observed in Rekha Gaud Vs. State of M.P. & Ors., decided on 26.09.2019, by the High Court of Madhya Pradesh in W.P.

No.3185/2011, that any judgment or order obtained by fraud is not a judgment at all. It has to be treated as nullity. Similar observation has been made

by the Supreme Court in case of Ramchandra Ganpat Shinde & Another Vs. State of Maharashtra & Ors, reported in (1993) 4 SCC 21,6 Nagubai

Ammal & Ors. V. B. Shama Rao & Ors , reported in AIR 1956 SC 593.

10. It is further submitted that in the case of Himalayan Co-operative Group Housing Society Vs. Balwan Singh & Ors. , reported in AIR 2015 SC

2867, it was observed that relationship between lawyers and the client is fiduciary in nature and it is the duty of the lawyers to act in accordance with the instruction of client.

11. The petitioners have also placed reliance on the judgment of Supreme Court in case of Satluj Jal Vidyut Nigam V. Raj Kumar Rajinder Singh

(Dead) Through : L.Rs. & Ors. , reported in AIR 2018 SC (Supp.) 97,7 P. Radha Bai & Ors. vs. P. Ashok Kumar & Anr., reported in AIR 2018 SC

5013, S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. And Ors., reported AIR 1994 SC 85 3G,anpatbhai Majhijibhai

Solanki Vs. State of Gujrat & Ors. , reported in (2008) 12 SCC 35 3and the judgment of High Court of Himanchal Pradesh in case of Shri

Mohammaed Soyab Vs. Union of India & Anr., in Review Petition No. 85 of 2016 decided on 25.05.2017. It is further submitted that act of making

false submission is a criminal act as defined under Section 35 of the Indian Penal Code. Hence, the order that has been procured by fraud is not an order at all, which is required to be set-aside.

12. It is also submitted by the counsel for the petitioners that counsel for the respondent No.1 has misquoted the judgment of Supreme Court in case of

Bajaj Hindustan Limited Vs. State of Uttar Pradesh & Ors., reported in (2016) 12 SCC 61, 3which is distinguishable in this case. It is a case of fraud

committed by the Law Officer of the State, therefore, the petitioners have right to make a prayer as prayed in this petition.

13. I have heard the learned counsel for the parties at length and perused the documents placed on record.

14. The main stress is given on the word fraud by the learned counsel for the petitioners. This situation has arisen on the basis of the communication

dated 11.10.2019, which has been produced on record by the petitioners, which is as under :-

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15-120/25-3/2013

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formalities as laid down in Madhuri Patil's case.

4. The answering respondent submits that since the Hon'ble Supreme Court as well as this Hon'ble Court in W.P. No.1363/02 has directed the

respondent No.1 to undertake the enquiry into the Caste Certificate of the petitioner within stipulated period, the answering respondent submits that a

direction be given to the petitioner that he should cooperate with the respondent No.1 Committee as well as Vigilance Cell constituted by the

respondent No.1.

5. In view of the above submissions, the answering respondents respectfully submit that the contention as raised in the petition relating to the legality

of the orders as made be kept upon and since nothing survives in the petition, the petition be disposed off in view of the submissions made in the

preceding paras.

Sd/-

OFFICER INCHARGE OF THE CASE Bilaspur Dated /09/13 Sd/-

COUNSEL FOR THE RESPONDENTS (STATE)

17. This written submission dated 18.09.2013 has been supported with an affidavit dated 17.03.2013 by deponent P.L. Choudhari, who was Deputy

Director, Department of Tribal Welfare, Raipur and OIC of the case.

18. The reply that has been filed by the respondents No.2,3 & 4 i.e. The High Power Certification Scrutiny Committee, State of Chhattisgarh and

Vigilance Cell, in the present MCC, clearly contests the claim made by the petitioners' side and the concession on the basis of which the order dated

18.09.2013 was passed in W.P.(C) No.1282 of 2013 has been supported with full force. This reply is supported by affidavit of one Mr. A.R. Navrang,

working as Deputy Commissioner, Tribal Development (Legal Cell), Bilaspur. The respondent/State has acknowledged the issuance of memo dated

11.10.2019, which mentions that the decision of the State Government for giving concession in W.P. (C) No.1282/13 is not verified. But despite this

development and change in situation as claimed on the basis of the communication dated 11.10.2019, the reply submitted by the respondent No.2, 3 &

4 in this case has not been withdrawn. The reply filed is signed and verified by the OIC and supported with an affidavit as well. Although the learned

Advocate General has made submission that in context of new development, the reply filed in this case should not be referred to. This kind of plain submission does not have any significance. The reply that has been filed duly signed, verified and supported with affidavit and to withdraw the previous reply the requirement is to make a written statement in similar manner by making specific statement mentioning the reasons as to why the earlier reply filed by the respondent No.2, 3 and 4 should be discredited in whole. No such written representation has been made by the respondent No.2, 3 and 4, which if made would also need to be supported with affidavit of the Officer-in-charge of the case. As regards the submissions of concession, which was filed in W.P.(C) No.1282/2013 supported with affidavit that does not appear to be clearly disowned by the respondent No.2, 3 and 4. If the respondents No.2, 3 & 4 have intended to discredit the concession made in W.P.(C) No.1282/13 then the requirement would be the same by filing a written representation supported with affidavit by the OIC of the case. It also appears that the statement made in the communication dated 11.10.2019 is not based on any enquiry and that no enquiry has been initiated by the respondent/State with intention to find out as to under what circumstances, the submission dated 18.09.2013 was made before this Court in W.P.(C) No.1282/2013. Therefore, on the basis of this observation, there appears to be no prima-facie substance present on the basis of which it can be held that the submission made by the Deputy Advocate General in W.P.(C) No.1282/2013 was based on fraud. Only on the basis of the statement made and the argument advanced on behalf of the petitioners, the conclusion that any fraud has been committed upon the Court can not be drawn on account of the response made by the State by not clearly denying and discrediting the earlier reply submitted by itself in the M.C.C.

19. Considered on the another argument submitted that in case of Collector Bilaspur Vs. Ajit P.K. Jogi (supra), the case was this that respondent No.1 had obtained caste certificate certifying him as a member of 'Kanwar' scheduled tribe and contested the election. On challenge being made to his social status, Commission for Scheduled Castes and Scheduled Tribes had made an enquiry and give a report against the respondent No.1. This report was challenged in the High Court. The High Court allowed the petition and set-aside the report of the Commission, which was challenged

before the Supreme Court in the present matter. The Supreme Court after elaborate discussion made observation in Paragraph No.15, 16, 17 and

concluded in paragraph-18, which are as under :-

15. It is only after recording the said findings, the Commission directed the State government to verify the genuineness of the ST certificate obtained

by first respondent and initiate action for cancellation of the certificate and also initiate criminal action. All these were unwarranted. As noticed above,

the power under clause 5(b) of Article 338 (or under any of the other sub-clauses of clause 5 of Article 338) did not entitle the Commission to hold an

inquiry in regard to the caste status of any particular individual, summon documents, and record a finding that his caste certificate is bogus or false. If

such a complaint was received about the deprivation of the rights and safeguards, it will have to refer the matter to the State Government or the

authority concerned with verification of caste/tribal status, to take necessary action. It can certainly follow up the matter with the State Government or

such authority dealing with the matter to ensure that the complaint is inquired into and appropriate decision is taken. If the State Government or the

authorities did not take action, the Commission could either itself or through the affected persons, initiate legal action to ensure that there is a proper

verification of the caste certificate, but it cannot undertake the exercise itself, as has been done in this case. The contention that there was sufficient

material to reach such a conclusion is not relevant. The scope of the duties of the Commission as noticed above, did not involve inquiry or adjudication

in regard to the rights of parties or caste status of the parties. The same is the position even under Article 338A (which was subsequently inserted)

providing for a separate Commission for Scheduled Tribes with identical duties. The order of the Commission cannot therefore be sustained. The High

Court was justified in setting aside the said order dated 16.10.2001.

16. This does not mean that the caste certificates of the first respondent are not to be verified. The appellants allege that among the certificates

obtained by the first respondent, the certificates dated 6.6.1967 and 27.2.1984 were issued by the Naib Tehsildar, who at the relevant point of time did

not have the authority to issue such certificates. With reference to the certificate dated 27.2.1984, it is also contended that the case number mentioned

pertains to grant of an explosive licence to one Gokul Prasad. In regard to

certificates dated 6.3.1986 and 12.1.1993, it is pointed out that no case number had been mentioned. In regard to the certificate dated 11.8.1999, it is pointed out that Naib Tehsildar at Indore, was not competent to issue such a certificate in regard to a resident of Pendra Road, Bilaspur. In regard to certificates dated 8.1.2001 and 20.9.2003 issued by the Additional Collector, Bilaspur, it is pointed out that the certificates are not in the required form and not in accordance with the relevant guidelines for issuance of certificates. It is also alleged that on 8.4.1977, the Addl. Tehsildar, Pendra Road had rejected the application of first respondent for issue of a certificate showing that he belonged to 'Kanwar' Scheduled Tribe. It is also alleged that father and mother of first respondent had entered into sale transactions on 12.8.1964, 21.9.1967 and 25.7.1979 describing themselves as Christians and had not sought permission under section 165(6) of MPLR Code which was mandatory, if they were tribals. We have referred to these averments only to point out that serious allegations were made in regard to the certificates obtained by the first respondent and the tribal status claimed by him. The certificates have never undergone a scrutiny by a properly constituted authority. The fact that two writ petitions were filed at some point of time, challenging the claim of first respondent that he belongs to a scheduled tribe may not be conclusive as the first writ petition was dismissed on the ground that it involved disputed questions of fact which could not be gone into in a writ proceeding and the second writ petition was dismissed on the ground that investigation into the allegations of forged certificates was in progress. Therefore even though the Commission was not entitled to hold an inquiry and record a finding that first respondent did not belong to a scheduled tribe, having regard to clause 5(b) and (f) of Article 338, it had the power and authority to require the State Government or the caste verification Committee constituted by the State Government, to examine the caste status claimed by the first respondent. The correspondence initiated by the Commission clearly showed a request/direction for verification of the caste of the first respondent was made by the Commission and the state government had responded by stating that the claim of first respondent that he belonged to a scheduled tribe and the validity of social status certificates would be verified by the Scrutiny Committee.

17. The High Court was therefore not justified in holding that in view of the

disposal of earlier writ petitions by the High Court, the dispute relating to tribal status of the first respondent had attained some kind of finality. On the facts and circumstances, there was also no justification for the High Court to either term the application given by the sixth respondent to the Commission as politically motivated or direct the State Government and the Commission to calculate the actual expenses incurred in regard to the inquiry and recover the same from the sixth respondent.

18. We therefore allow these appeals in part as under :

(i) The order of the High Court dated 15.12.2006 to the extent it quashes the order dated 16.10.2001 of the Commission, is upheld.

(ii) The adverse observations by the High Court about the complaint by the sixth respondent, the

inquiry by the Commission, and the stand of the State Government and the Collector before the High Court, being politically motivated, are set aside.

(iii) The direction to the State Government and the Commission to calculate the actual cost incurred in prosecuting the writ petition and directing the sixth respondent to pay the actual costs plus Rs.10,000 is set aside.

(iv) In terms of the direction of the Commission, the State Government through a duly constituted Scrutiny Committee shall now undertake the

verification/scrutiny of the social status (tribal) certificates issued to the first respondent showing him as belonging to 'Kanwar' Scheduled Tribe and

decide the matter after giving due opportunity to the first respondent, uninfluenced by any observations by the Commission, High Court or this Court.

The State Government/concerned authorities shall be entitled to take consequential action on the basis of the order/report of the Scrutiny Committee.

20. In compliance with this order in judgment dated 13.10.2011, the State Government had constituted a Scrutiny Committee, which undertook the

matter and the Committee has verified and scrutinized the social status certificate issued to the respondent No.1. Vigilance Cell was constituted by the

Caste Certification High Level/Powered Scrutiny Committee, which made an enquiry and submitted report dated 22.04.2013 concluding that social

status of the respondent No.1 shown as member of Kanwar tribe was doubtful and the second supplementary enquiry report was submitted on

22.06.2013. The submission of this report by the Vigilance Cell was challenged in W.P.(C) No.1282/2013 on the ground that vigilance enquiry was not

made in accordance with the direction issued by the Supreme Court in case of Ku. Madhuri Patil & Anr. Vs. Additional Commissioner, Tribal

Development Department (supra). The result and conclusion of this W.P.(C) has been discussed hereinabove.

21. In case of Ku. Madhuri Patil (Supra), the Hon'ble Supreme Court has issued direction in paragraph -13 of which relevant directions are at No. 5,

6, 9, 13 and 15, which is quoted as under :-

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 from.

The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the 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 proforma, 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 acknowledgement 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 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 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.

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.

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 Article 136.

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 acknowledgement 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.

22. This had been the case when there had been no specific legislation regarding the regulation of social status certification in place. The State of

Chhattisgarh has enacted Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification)

Act, 2013 (hereinafter referred to as 'the Act, 2013'), which has come into force on 29.04.2013. This Act regulates about issuance of social status

certificate in Chapter-2. Section -6 under Chapter-3 of the Act, provides for District Level Certificates verification Committee and that Committee is

empowered to verify the social status certificate issued in favour of the person and report about wrongful and fraudulent certificate obtained, to the

High Power Certification Certification scrutiny Committee. Section 7 provides for constitution of High Power Certification Scrutiny Committee, which

in turn examines the report submitted by the District Level Certificates Verification Committee, according to the procedure prescribed. Section -8 of

the Act, 2013 provides for cancellation and confiscation of false social status certificate and this power is vested with High Power Certification

Scrutiny Committee. Consequences of such cancellation are provided in Section -9, 10, 12 and 13. This enactment appears to be in consonance with

the directions laid down by the Supreme Court in case of Ku. Madhuri Patil's case (supra) and also the direction given by the Supreme Court in

Collector, Bilaspur Vs. Ajit P.K. Jogi (supra).

23. After the enactment of this statute it appears that it was in the change of circumstances the submission was made on behalf of the State on

18.09.2013 in W.P.(C) No.1282 of 2013. However, after disposal of the W.P.(C) No.1282/13, the State initiated enquiry against the respondent No.1

under the provisions of Act, 2013. In the matter of Ajit Pramod Kumar Jogi Vs. High Power Certification Scrutiny Committee in W.P.(C) No. 2104 of

2017 decided on 30.01.2018 the Division Bench of this Court has observed in paragraph -9 that after issuance of direction by the Apex Court on

13.10.2011 in case of Collector, Bilaspur Vs. Ajit P.K. Jogi, the High Power Committee was constituted following the directions in Ku. Madhuri Patil

(supra), was again reconstituted on 30.03.2013. However, after enactment of the Act, 2013, new Committee was constituted under the provisions of

Sub-section (1) of Section 7 of the Act, 2013. The legality of the constitution of the Committee under Section 7 of the Act, 2013 has been affirmed in

the judgment dated 30.01.2018, in paragraph-12 that Act having come into force and the statutory power to appoint a Committee in terms of Sub-

section (1) of Section 7 of the Act, 2013 having been exercised, there is no question of continuing administrative authority that could be traced

segregable and exercisable on the face of Sub-section (1) of Section 7 of the Act, 2013. The Division Bench of this Court has ordered in paragraph

No.20, which is as follows :-

20. For the aforesaid reasons, this writ petition is allowed quashing the impugned Annexure P/1 order and directing that proceedings shall be carried

from the stage at which it had reached before nomination of the officers of the Committee as per ""order"" dated 17.03.2017. It is further declared that

the said ""order"" dated 17.03.2017 does not supersede Annexure R-64 Notification issued on 22.08.2013 and would continue to hold good unless

modified in accordance with law. Following the directions issued by the Hon'ble Supreme Court in Collector, Bilaspur (supra), it is further ordered that

the State Government shall give effect to the directions contained in paragraph 28(iv) of that judgment in conformity with the provisions of the

Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 and the

Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013. It is clarified

that no proceedings prior to 17.03.2017 is interfered with through this judgment and further proceedings may go on from that stage, with liberty to the

Petitioner or any person aggrieved to contest such prior proceedings as and when the proceedings by the duly constituted statutory Scrutiny

Committee concludes.

24. The submission of the counsel for the petitioners that learned Advocate General had no authority to make any concession is not verified from the

order that has been passed in W.P.(C) No.1282 of 2013 on 18.09.2013, which mentions the presence of Shri Yashwant Singh Thakur, Deputy

Advocate General. Even if it is considered that Shri J.K. Gilda, being the Advocate General representing the State is responsible for the said

concession as the Deputy Advocate General had been acting on his behalf, there is nothing to make out that the Advocate General or the Deputy

Advocate General had no such authority to make such concession in the case and that would have been implied non- compliance or disobedience to

any of the direction given by the Supreme Court in the case of Collector, Bilaspur Vs. Ajit P.K. Jogi (supra). Therefore, I do not find any substance in

this argument.

25. The Supreme Court in case of J. Jayalalithaa & Ors. Vs. State of Karnataka & Ors. (Supra) has observed in paragraph 21 and 24, which is

quoted as under :-

21. The respondents' contention that the prosecution alone must begin their arguments is based on Section 234 Cr.P.C., which is not applicable to the

present trial at all. Having regard to the scope of the present dispute, we do not consider it necessary or appropriate to decide this question either.

24. In State of T. N. Vs. K. Shyam Sunder & Ors., AIR 2011 SC 347,0 this Court has observed that the Government has to rise above the nexus of

vested interests and nepotism and eschew window-dressing. The principles of governance have to be tested on the touchstone of justice, equity and

fair play. A decision may look legitimate but as a matter of fact, if the reasons are not based on values but to achieve popular accolade, the decision

cannot be allowed to operate. Therefore, unless it is found that the act done by the authority earlier in existence is either contrary to the statutory

provisions or unreasonable, or is against public interest, the State should not change its stand merely because the other political party has come into

power. "Political agenda of an individual or a political party should not be subversive of rule of law." (See also: M.I. Builders (P) Ltd. Vs. Radhey

Shyam Sahu & Ors, AIR 1999 SC 2468; Onkar Lal Bajaj etc. v. Union of India & Anr. etc., AIR 2003 SC 2562; State of Karnataka & Anr. V. All

India Manufacturers Organization & Ors., AIR 2006 SC 184;6 and A.P. Dairy Development Corporation Federation v. B. Narasimha Reddy & Ors.,

AIR 2011 SC 3298).

26. Further the Supreme Court in case of State of Haryana Vs. State of Punjab & Another (Supra), has observed in paragraph -16. The relevant

portion of para-16 is as under :-

16.....What really bothers us most is the functioning of the political parties, who assume power to do whatever that suits them and

whatever would catch the vote-bank. They forget for a moment that the constitution conceives of a Government to be manned by the representatives

of the people, who get themselves elected in an election. The decisions taken at the governmental level should not be so easily nullified by a change of

government and by some other political party assuming power, particularly when such a decision affects some other State and the interest of the

nation as a whole. It cannot be disputed that so far as policy is concerned, a political party assuming power is entitled to engraft the political philosophy

behind the party, since that must be held to be the will of the people. But in the matter of governance of a State or in the matter of execution of a

decision taken by a previous government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding

government must be held duty bound to continue and carry on the unfinished job rather than putting a stop to the same.

27. The word used in the judgment that the decision taken at the governmental level should not be easily nullified by the change of government and

some other political party assuming power, demonstrates that Supreme Court has opined and observed that any decision taken by the government in

place has to be honoured by the subsequent government formed by another political party. Particular situation in this case is this that apart from filing

the copy of the communication dated 11.10.2019 in the present case, the respondent/State has not made any other attempt to retract or rescind the

concession that was given on behalf of the State in W.P.(C) No.1282 of 2013 on 18.09.2013. The statement in that communication that the decision of

the State Government by which the concession made was not found verified from the official record present is not a complete statement as no enquiry

has been held in that respect, neither the said OIC, who had signed verified and sworn the affidavit in support of that concession has been held

responsible or charged with any such responsibility and similarly the fact that the stand taken by the respondents No.2, 3 & 4 earlier by submitting

reply and contesting the case application filed by the petitioners has not been withdrawn, therefore, under these circumstances, I am of this opinion

that no element of fraud is found to be present or made out on the basis of the circumstances that had been present on the date of making such

submission. It is further observable that after making statement in communication dated 11.10.2019, the respondents No.2, 3 and 4 have not ventured

any further to enquire, verify and contradict the decision of the State Government on the basis of which that concession was made. Therefore, I am of

this view that there is no substance in the present application on the basis of which the order dated. 18.09.2013 passed in W.P.(C) No.1282/2013 can

be recalled.

28. Accordingly, the MCC has no merit and it is dismissed accordingly.