

(2017) 01 CHH CK 0085
In the Chhattisgarh High Court
Case No : 1274 of 2004

Smt. Chandra Kumari

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 31-01-2017

Acts Referred:

Citation : (2017) 01 CHH CK 0085

Hon'ble Judges : Sanjay K. Agrawal

Bench : Single Bench

Advocate : V.G. Tamaskar, Yashwant Singh Thakur

Judgement

1. This petition is directed against the order Annexure P-32 whereby the District Level Caste Scrutiny Committee has revoked the caste certificate issued in favour of the petitioner on 10-10-1991 by the Collector, Durg, holding that she does not belong to Scheduled Tribe as notified and therefore she is not entitled for the caste certificate.
2. This writ petition has been filed mainly on the ground that the District Level Caste Scrutiny Committee constituted by the State is contrary to the law laid down by the Supreme Court in the matter of Madhuri Patil v. Addl. Commr., Tribal Development, (1994) 6 SCC 241 as well as Madhuri Patil v. Addl. Commr., Tribal Development, (1997) 5 SCC 437 and therefore the order passed by the District Level Caste Scrutiny Committee revoking the caste certificate of the petitioner is per se illegal and without authority of law.
3. The State has filed return justifying the revocation of caste certificate of the petitioner by the District Level Caste Scrutiny Committee.
4. Mr. V.G. Tamaskar, learned counsel appearing for the petitioner, would submit that after decision of the Supreme Court in Madhuri Patil (supra), only the High Power State Level Committee is empowered to decide the caste status of the petitioner and it could not have been decided by the District Level Committee which had no jurisdiction to decide the status of the petitioner. Therefore, the

impugned order deserves to be set aside.

5. Mr. Yashwant Singh Thakur, learned Additional Advocate General appearing on behalf of the State/respondents No.1 to 9, would support the impugned order.

6. I have heard learned counsel for the parties and considered their rival submissions and also gone through the relevant documents.

7. It is not in dispute that the petitioner was granted the certificate of Scheduled Tribe by order of the Collector on 10-10-1991. It is also not in dispute that the District Level Caste Scrutiny Committee on enquiry, has revoked the caste of the petitioner on 16-12-2003.

8. The question for consideration would be whether the District Level Caste Scrutiny Committee has authority and jurisdiction to revoke the caste certificate after decision of the Supreme Court in *Madhuri Patil* (supra).

9. In *Madhuri Patil* (supra) (1994), the Supreme Court formulated a scheme for verification of tribal status and held that any application for verification of tribal status as Scheduled Tribe should be carried out only by Scrutiny Committees. It was further held that the verification of the validity of caste certificates and determination of the caste status should therefore be done only by the Scrutiny Committees as per the directions given in *Madhuri Patil* (supra) or in terms of any statute made by the appropriate Government in that behalf. (See *Collector, Bilaspur v. Ajit P.K. Jogi and others*, (2011) 10 SCC 357)

10. The Supreme Court in *Madhuri Patil* (supra) (1994) is pleased to give certain directions, Direction 4 of which states as under: - "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, 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."

11. This direction was subsequently reiterated in *Madhuri Patil* (supra) (1997) with no change. The directions given in *Madhuri Patil* (supra) have been reiterated in the matter of *Director of Tribal Welfare v. Laveti Giri*, (1997) 4 SCC 271 and the said directions given in *Madhuri Patil* (supra) regarding constitution of committee has been approved by a three- Judge bench of the Supreme Court in the matter of *Sudhakar Vithal Kumbhare v. State of Maharashtra*, (2004) 9 SCC 481 in which as the matter was not referred to appropriate committee in terms of directions given in *Madhuri Patil* (supra), the appeal was allowed and it was directed by the Supreme Court that the properly constituted committee shall decide the matter.

12. In the matter of *GM, Indian Bank v. R. Rani and another*, (2007) 12 SCC 796,

the question as to whether the District Level Committee had right and jurisdiction to determine the caste status directly came-up for consideration before the Supreme Court and it has been held by Their Lordships that the constitution of District Level Committee was in infraction of law laid down in Madhuri Patil (supra) and the Supreme Court further held that the defect could not have been cured by taking the matter in appeal to State-level Committee and observed pertinently in para 9 as under: - "9. So far as the second submission is concerned, we are of the view that as the constitution of the district-level committee was in infraction of law laid down by this Court in Madhuri Patil (supra) (1994) the defect could not have been cured by taking the matter in appeal to State-level committee. This being the position, we are of the view that the High Court was quite justified in quashing the orders passed by districtlevel committee, State-level committee and the orders of termination."

The Supreme Court further held that the directions given in Madhuri Patil (supra) (1994) have binding force of law and those are not mere guidelines.

13. R. Rani's case (supra) was referred by the Supreme Court in the matter of Registrar General, Calcutta High Court v. Shrinivas Prasad Shah and others, (2013) 12 SCC 364 with approval.

14. The State of Chhattisgarh was constituted with effect from 1-11-2000. The State of Chhattisgarh by order dated 14-2-2001, constituted a high power caste scrutiny committee as modified on 27-2-2001 and also further modified on 30-3-2013. Thereafter, the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 was enacted. Thus, from the aforesaid legal analysis, it is quite vivid that on the date of impugned order i.e. 16-12-2003, only the State-level High Power Caste Scrutiny Committee, as constituted as per the order of the Supreme Court in Madhuri Patil (supra), was empowered to look into the status of the petitioner whether he belongs to Scheduled Tribe or not. The district-level caste scrutiny committee has no jurisdiction and authority to enquire into and declare the status of the petitioner in view of the law laid down by the Supreme Court in R. Rani's case (supra). Consequently, the impugned order passed by the district-level caste scrutiny committee is hereby quashed, as the said committee had no jurisdiction to enquire into the caste of the petitioner in view of the decision of the Supreme Court in Madhuri Patil (supra) and constitution of High Power Caste Scrutiny Committee by the State of Chhattisgarh. However, this will not bar the respondents to proceed in accordance with law.

15. The writ petition is allowed to the extent indicated herein above. There shall be no order as to cost(s). Writ petition is allowed.