

Court No. - 40

Case :- WRIT - C No. - 34247 of 2024

Petitioner :- Chhaviraj Gond

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Munna Yadav,Nikhil Kumar

Counsel for Respondent :- Arun Kumar,C.S.C.,Ram Kumar
Gautam

Hon'ble Shekhar B. Saraf,J.

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Nikhil Kumar, learned counsel appearing on behalf of the petitioner, Sri Girish Chandra Tiwari, learned Additional Chief Standing Counsel appearing on behalf of respondent Nos. 1 & 2 and Sri Ram Kumar Gautam, learned counsel appearing on behalf of respondent No.3.

2. The instant writ petition under Article 226 of the Constitution of India has been filed challenging the order dated August 25, 2024 whereby the District Level Committee has cancelled the Caste Certificate No. 2154 dated October 10, 2005 earlier issued in favour of the petitioner while disposing of the complaint made against him.

3. One of the submissions advanced by learned counsel appearing on behalf of the petitioner is based upon the judgment of the Supreme Court in **Kumari Madhuri Patil and another vs. Additional Commissioner, Tribai Development and others, AIR 1995 SC 94** and it is urged that the Supreme Court in that case had issued clear directions to the effect that such matters have to be mandatorily enquired into by the Vigilance Cell.

4. Further reliance has been placed upon an interim order passed

by the coordinate Bench of this Court dated July 7, 2022, in Writ C No. 3797 of 2022 (**Mohd. Salman vs. State of UP through Principal Secretary Panchayati Raj Department and others**) and it is urged that in the instant case, the order impugned has been passed without following the mandate of law laid down by the Supreme Court in **Kumar Madhuri Patil (Supra)**.

5. Per contra, learned Additional Chief Standing Counsel submits that the order impugned has been passed after conducting detailed analysis of material placed before the District Level Committee and the same does not require any interference. However, he could not dispute that no enquiry was conducted by the Vigilance Cell as directed by the Supreme Court in **Kumar Madhuri Patil (Supra)**.

6. The Division Bench in the aforesaid interim order has discussed the law at some length and following observations were made :

*"It is not in dispute; rather it is apparent from a perusal of the impugned decision dated 31.05.2022 that the petitioner had raised the issue before the District Level Caste Scrutiny Committee that such matter in terms of the judgment in the case of **Kumari Madhuri Patil (supra)** needs to be mandatorily enquired by the Vigilance Officer. The judgment of Hon'ble Supreme Court in the case of **Kumari Madhuri Patil (supra)** is to operate till appropriate Legislation on the subject is framed by the State. Till date, no such Legislation appears to have been enacted by the State of U.P. and as such the guidelines as contained in the judgment in the case of **Kumari Madhuri Patil (supra)** hold the field. Guidelines No. 5 and 6 in the case of **Kumari Madhuri Patil (supra)** as contained in Paragraph-13 of the judgment mandates creation of a Vigilance Cell consisting of Senior Deputy Superintendent of Police being over-all incharge and the said Cell manned by number of Police Inspectors is to investigate the social status claims. It also mandates that Inspectors of Vigilance Cell shall have to go to the local place of residence and original place from which the candidate hails and usually resides. It further directs that*

the Vigilance Cell shall conduct thorough enquiry which has relevant impact on the outcome of the decision to be taken by the District Level Caste Scrutiny Committee.

However, the issue as to whether the District Level Caste Scrutiny Committee is under obligation to get the vigilance enquiry conducted stands referred for decision by a Full Bench by means of order dated 30.06.2022, passed by the Division Bench as noted above. Thus, till the Full Bench answers the question referred to it, in our considered opinion, it will be not possible for the appellate Committee i.e. the Divisional Level Caste Scrutiny Committee to deal with the issue of necessity of the enquiry by the Vigilance Cell. Accordingly, relegating the petitioner to avail the remedy of appeal before the Divisional Level Caste Scrutiny Committee, in our considered opinion, may cause prejudice to him.”

7. Once the law declared by the Supreme Court in **Kumar Madhuri Patil (Supra)** holds the field and in the instant case we are satisfied that the matter was never referred to the Vigilance Cell, the order impugned cannot sustain.

8. Consequently, the writ petition succeeds and is allowed. The impugned order dated August 25, 2024, passed by the District Level Committee is hereby quashed.

9. It is open for the respondents to follow the mandate of law laid down by the Supreme Court in **Kumar Madhuri Patil (Supra)** and refer the matter to the Vigilance Cell afresh and then pass appropriate order based on the report submitted by the Vigilance Cell.

Order Date :- 20.1.2025

DKS

(Kshitij Shailendra, J.) (Shekhar B. Saraf, J.)