

Navneet Kaur Harbhajansing Kundles @ ... vs The State Of Maharashtra on 4 April, 2024

Author: J.K. Maheshwari

Bench: Sanjay Karol, J.K. Maheshwari

REPORTABLE

2024 INSC 266

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) . 2741-2743 OF 2024

Navneet Kaur Harbhajansing Kundles
@ Navneet Kaur Ravi Rana

....Appellant

VERSUS

State of Maharashtra and Others.

....Respondents

JUDGMENT

J.K. Maheshwari J.

1. The present appeals arise out of impugned common judgment and final order dated 08.06.2021 passed by Division Bench of High Court of Judicature at Bombay in three Writ Petitions. Out of the said three petitions, Writ Petition No. 3370 of 2018 and Writ Petition No. 2675 of 2019 were preferred by Anandra Vithoba Adsul and Raju Shamrao Mankar (Respondents herein), inter alia seeking identical reliefs, i.e., issuance of writ of certiorari for quashing and setting aside order dated 03.11.2017 passed by District Caste Scrutiny Committee, Mumbai Suburban (hereinafter validated the caste claim of Appellant herein as 'Mochi – Reason:

Scheduled Caste' in Maharashtra. Conversely, Writ Petition (Lodging) No. 9426 of 2020 was filed by Appellant herein seeking writ of certiorari and setting aside the findings of Scrutiny Committee, particularly in para 4 of order dated 03.11.2017 to the extent of 'non-consideration' of oldest documents submitted by her, which as contended by her sustained and established her caste claim. The Division Bench vide common impugned judgment allowed the petitions of Anandra Vithoba Adsul and Raju Shamrao Mankar and dismissed the petition preferred by Appellant. The High Court quashed and set aside the order dated 03.11.2017 passed by Scrutiny Committee primarily on the ground that the same was obtained fraudulently and cancelled the caste certificate issued in favour of Appellant. The Division Bench

further imposed a cost of Rs. 2,00,000/- on the Appellant and directed to surrender her caste certificate. Hence, the present appeals.

FACTS IN BRIEF

2. The entire controversy revolves around the validation of caste claim in favour of Appellant, on the anvil of which, the Appellant contested the 2019 Parliamentary election from Amravati constituency in Maharashtra as an independent candidate on a seat reserved for Scheduled Caste and emerged as winning candidate while defeating the other contesting candidates including Anandra Vithoba Adsul (Respondent herein). Aggrieved, Appellant's candidature on the reserved seat was assailed by other contesting candidates primarily on the ground that she obtained the 'Mochi' Scheduled Caste' certificate from the authorities concerned by submitting forged and fabricated documents. The genesis of the dispute is traceable from year 2013, when various complaints were submitted against Appellant before the Scrutiny Committee seeking cancellation of the caste validity certificate issued in her favour by Deputy Collector vide order dated 30.08.2013. From 2013 to 2017, the proceedings continued and eventually, when the matter was seized before High Court in Civil Writ Petition No. 325 of 2014 preferred by one Raju Mankar, the High Court vide order dated 28.06.2017 set aside the caste validity certificate issued in favour of Appellant and remanded the matter with directions to the Scrutiny Committee to give opportunity of hearing to all the parties and take decision in accordance with law.

3. In furtherance of remand by High Court vide order dated 28.06.2017, the matter was taken up by Scrutiny Committee, and the parties duly contested their case. After hearing the parties at length and having considered all the documents placed on record, the Scrutiny Committee accepted the caste claim of Appellant vide order 03.11.2017 predominantly on the basis of two documents, i.e., (i) bona fide certificate dated 11.02.2014 issued by Khalsa College of Arts, Science and Commerce in the name of Appellant's grandfather mentioning his caste as 'Sikh-Chamar'; and (ii) the Indenture of Tenancy of 1932 which corroborated the Appellant's claim of her forefathers having migrated to Maharashtra from Punjab back in 1932 itself along with proof of residence. Aggrieved from above, the parties filed respective Writ Petitions and hence, the instant appeals. ARGUMENTS ADVANCED BY APPELLANT

4. Learned Senior Counsel Mr. Dhruv Mehta at the outset contended that High Court erred in upsetting the detailed findings of Scrutiny Committee in exercise of jurisdiction under Article 226 of Constitution of India. High Court by invoking its jurisdiction to issue a writ of certiorari ought not to have interfered in the matter since the Committee arrived at such conclusion after having conducted extensive fact-finding exercise. He further submitted that the scope of exercise of jurisdiction in such cases is limited to examination of orders passed by the Courts/Forums below to see if such orders have been passed without jurisdiction, or in excess of the jurisdiction or due to failure of exercise of jurisdiction. Undisputedly, Scrutiny Committee in the instant case, being a quasi-judicial authority exercised its jurisdiction under 'Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000', (hereinafter referred to as '2000 Act') and adjudicated the claim. The fact-finding exercise and assessment of

documents fell within the exclusive domain of the Scrutiny Committee and High Court in supervisory jurisdiction dealt with the petitions akin a statutory appeal. The roving inquiry conducted by High Court was uncalled for, particularly when in the instant case there is no allegation to the effect that Scrutiny Committee lacked jurisdiction. The procedure as prescribed was duly followed by the Scrutiny Committee and after due application of mind, the claim of Appellant was validated. [See ‘Nagendra Nath Bora Vs. The Commissioner of Hills Division and Appeals, Assam and Others., AIR 1958 SC 398’ – Para 30 to 39 and 41; ‘Rajendra Diwan Vs. Pradeep Kumar Ranibala, (2019) 20 SCC 143’ – Para 85 to 87; ‘Indian Overseas Bank Vs. I.O.B. Staff Canteen Workers’ Union and Another, 2000 (4) SCC 245’ – Para 17; Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others, 2023 SCC OnLine SC 326 – Para 28]

5. So far as question of inadmissibility of documents submitted by Appellant before Scrutiny Committee is concerned, it was argued by the learned Senior Counsel that those documents carried a statutory presumption under Indian Evidence Act as they were related to forefathers of Appellant and belonged from pre-Independence era. Unless any adverse findings were returned on those documents by Vigilance Cell, the Scrutiny Committee erred in not considering them and holding them as inadmissible. [See ‘Anand Vs. Committee for Scrutiny and Verification of Tribal Claims, (2012) 1 SCC 113’ – Para 22; ‘Priya Pramod Gajbe Vs. State of Maharashtra and Others, 2023 SCC OnLine SC 909’ – Para 8 to 12] ARGUMENTS ADVANCED BY RESPONDENTS

6. The learned Senior Counsel Mr. Kapil Sibal mainly contested the case on the scope of interference with the Scheduled Castes Order, 1950 (hereinafter referred to as ‘Presidential Order’) issued by President under Article 341 of Constitution of India and argued that it is constitutionally impossible to grant the caste certificate in favour of Appellant. He submitted that in absence of specific caste (‘Ravidasia Mochi’ or ‘Sikh Chamar’) being originally mentioned in the said Presidential Order for Maharashtra State, no caste certificate could have been conferred at the first instance in favour of Appellant. He further submitted that the issue of interfering with the Presidential Order is no more res-integra and has been long back well settled by catena of judgments passed by this Court including Constitution Bench judgments [See ‘Marri Chandra Sekhar Rao Vs. Seth G.S. Medical College, (1990) 2 SCC 130’; ‘Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another Vs. Union of India and Another, (1994) 5 SCC 244’; ‘State of Maharashtra Vs. Milind and Others, (2001) 1 SCC 4’], wherein it has been categorically held that the Presidential Order is to be read as it is and no further interpretation is permissible by any authority to such order. The terminology used in the Presidential Order is to be read verbatim and if a caste is mentioned in the original Order, then only benefit of caste certificate can be issued in favour of an applicant belonging from one State and migrated to another. No kind of ‘prefix’ or ‘suffix’ can be taken into consideration to expand the ambit of Presidential Order by any authority, and it is only the Parliament which is competent by law to include or exclude a caste/tribe from the list of notified Scheduled Castes and Scheduled Tribes. He further drew our attention to the extracts of Presidential Order and submitted that neither ‘Ravidasia Mochi’ nor ‘Sikh Chamar’ is mentioned or recognized therein. In such case, if a caste has not been particularly mentioned or notified for a State, then the benefit of recognition to an applicant belonging to a caste notified for that particular State cannot be granted. What cannot be done directly, cannot be done indirectly. Lastly, learned Senior Counsel concluded his arguments on the note that, once such is the situation

where the Presidential Order itself is a self-speaking document, nothing survives in the case for adjudication and no interference of this Court is called for.

7. The assisting learned counsel Mr. Shadan Farasat mainly contended on the entirety of the facts and argued in support of the observations made by High Court by demonstrating as to how the Appellant obtained the caste claim certificate by submitting multiple forged and fabricated documents. He submitted that a fraud has been played by the Appellant on the authorities to get her caste certificate by using 'trial and error' method by creating multiple forged documents and submitting them to sustain her claim, specifically when her initial documents in support of 'Mochi' caste were found to be forged and fabricated. He further urged that, even for the sake of argument if it is assumed that the documents are genuine in nature, then also the Appellant cannot be granted the caste certificate for the reason that the documents on the basis of which the Appellant sought benefit of caste certificate are self-contradictory in nature. He drew the attention of this Court to the first claim submitted by the Appellant where she claimed herself belonging to 'Ravidasia Mochi' from Punjab State. Although the said documents were not admitted by the Scrutiny Committee, however, the documents showing the Appellant to be 'Sikh Chamar' were admitted and intriguingly, she was granted a 'Mochi' caste certificate which had cascading effect of tinkering with the Presidential Order as neither 'Sikh Chamar' nor 'Ravidasia Mochi' is recognized as Scheduled Caste for Maharashtra State therein. Hence, such an exercise carried out by Scrutiny Committee by considering the Appellant's case as 'Sikh-Chamar' or 'Ravidasia Mochi' even on the surface of it as true for validating her caste claim, was impermissible in law since neither 'Sikh-Chamar' nor 'Ravidasia Mochi' are present in the original Presidential Order of 1950 for Maharashtra State.

8. To substantiate the above argument, he further placed reliance primarily on the three documents submitted by Appellant before the Scrutiny Committee, i.e., (i) her father's school leaving certificate; (ii) her father's caste certificate; and (iii) her self-school leaving certificate. It is submitted that all the above three documents were interpolated, forged and fabricated to procure the caste validity certificate. So far as first document, i.e., Appellant's father school leaving certificate is concerned, the Vigilance Cell submitted its report that on inspection it was found that the concerned school never issued the said certificate. Secondly, the Appellant's father caste certificate itself stood cancelled and confiscated by the Scrutiny Committee vide order dated 03.11.2017. Though on the very same date, the Scrutiny Committee validated the caste claim in favour of Appellant and rejected the benefit of same caste to her father. Thirdly, the last document, i.e., Appellant's self-school leaving certificate issued by Kartikeya High School and Junior College, New Hall Road, Kurla West, Mumbai, mentioning 'Mochi' under the religion column in favour of Appellant, it is submitted that the said change was done on 23.08.2013 under the political influence on letter sent by Appellant's husband who is a sitting Member of Legislative Assembly from Badnera constituency in Amravati district.

ANALYSIS

9. Before advertng to the merits of the case, it is relevant to highlight that the issue of procurement of caste certificate through fraudulent means has been a longtime menace. In absence of any mechanism prescribing the procedure, the discretionary powers vested with authorities concerned

have been subject matter of multiple layers of litigation before Courts throughout India. Eventually, the issue concerning the procedure to be followed for adjudication of caste claims was considered in detail by Constitution Bench of this Court in ‘Kumari Madhuri Patil and Another Vs. Additional Commissioner, Tribal Development and Others, (1994) 6 SCC 241’, wherein this Court expressed grave concerns about the deprivation of benefits to genuine candidates, especially when caste certificate has been obtained fraudulently on the basis of forged documents and social status. This Court laid emphasis on the need of the hour to streamline the procedure for issuance of caste certificates, their scrutiny and validation thereafter. Resultantly, this Court exercising the powers under Article 142 of Constitution of India, laid down exhaustive procedural guidelines in para 13 which is reproduced below as thus –

13.It is, therefore, necessary that the certificates issued are scrutinized at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.
2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.
3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.
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 be, 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.
5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in overall 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 pro forma, 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-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.

8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.

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.

10. In case of any delay in finalizing the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.

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

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

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.

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.

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.

In furtherance of the said guidelines, streamlined procedure was formulated and State Acts were enacted to deal with caste claim cases.

10. As the present case arises from Maharashtra, it is necessary to deal with the respective State Act, i.e., the 2000 Act enacted with effect from 18.10.2001 containing elaborative procedure and mechanism for regulation and verification of caste claims. Since the moot point in this case is arising

from the verification and issuance of caste validity certificate in favour of Appellant, it becomes imperative to look into the relevant provisions of the Act, in particular Section 6, Section 7 and Section 9, which are reproduced below for ready reference – Section 6 – Verification of Caste Certificate by Scrutiny Committee.

(1) The Government shall constitute by notification in the Official Gazette, one or more Scrutiny Committee(s) for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committee or Committees.

(2) After obtaining the Caste Certificate from the Competent Authority, any person desirous of availing of the benefits or concessions provided to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category for the purposes mentioned in section 3 may make an application, well in time, in such form and in such manner as may be prescribed, to the concerned Scrutiny Committee for the verification of such Caste Certificate and issue of a validity certificate. (3) The appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions shall, make an application in such form and in such manner as may be prescribed by the Scrutiny Committees for the verification of the Caste Certificate and issue of a validity certificate, in case a person selected for an appointment with the Government, local authority, public sector undertakings, educational institutions, Co-operative societies or any other Government aided institutions who has not obtain such certificate.

(4) The Scrutiny Committee shall follow such procedure for verification of the Caste Certificate and adhere to the time limit for verification and grant of validity certificate, as prescribed.

Section 7 – Confiscation and Cancellation of false Certificate.

(1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category has obtained a false Caste Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes, the Scrutiny Committee may, suo motu, or otherwise call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High Court under Article 226 of the Constitution of India.

Authority, Appellate Authority and Scrutiny
Committee.

(1) The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any Court or office; and
- (e) issuing Commissions for the examination of witnesses or documents.

A bare perusal of the aforesaid provisions reveals that power to verify the correctness/validation of the caste certificate issued by Competent Authority under Section 4 is vested with Scrutiny Committee constituted under Section 6. Section 7 further empowers the Scrutiny Committee with suo motu powers or otherwise to call for record and enquire into correctness of a caste certificate if it is of the opinion that such certificate was obtained fraudulently and also vests the Committee with the power to cancel and confiscate the certificate in question in accordance with law. Such order of Scrutiny Committee as per sub clause (2) is said to be final and protected from any challenge before any authority except High Court under Article 226 of Constitution of India. Furthermore, Section 9 confers all powers on the Scrutiny Committee as exercised by Civil Court while trying a suit as per Civil Procedure Code, 1908.

11. In furtherance of the aforesaid 2000 Act, the State of Maharashtra further brought in force the ‘Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012’ (hereinafter referred to as ‘2012 Rules’), stipulating detailed provisions regarding procedure for constitution of Scrutiny Committee as well as the procedure to be followed by it while dealing with the claims seeking validation of caste certificate issued by Competent Authority. For the purpose of case at hand, Rule 13, Rule 14 and Rule 17 are relevant and thus are reproduced below for ready reference – Rule 13 – Report of Vigilance Cell and Issues to be dealt with.

(1) Vigilance Cell Officer(s) shall submit report upon investigating into the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim, referred to it, –

- (a) by visiting permanent place of residence and conducting domestic inquiry; or

(b) by recording statements of respected and responsible persons from concerned area, including representatives of Local Self Government, Police Patil, etc.; or

(c) by collecting information, as part of recording statement, as regards to name, age, educational qualification, occupation, existing place of residence and information regarding properties (existing and disposed) of family members of applicant or claimant;

or

(d) by collecting information including the sociological, anthropological and ethnological (anthropological moorings and ethnological kinship), genetical traits of the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category, if any; or

(e) by personally visiting Office of the Competent Authority or revenue or school or other concerned offices.

(2) Notwithstanding anything contained in any provision of these rules, –

(a) the Vigilance Cell shall not record concluding remark or opinion, since vigilance inquiry is meant for internal assistance to the Scrutiny Committee and adjudication of Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category status is exclusive domain of the Scrutiny Committee;

(b) finding recorded and opinion expressed, if any, by the Vigilance Officer shall not be binding on Scrutiny Committee nor could be used as evidence, in support of Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim.

Rule 14 – Verification of Caste Certificate.

Any person desirous of availing of the benefits and concessions provided to the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Categories for any of the purposes as mentioned in Section 3 of the Act shall, invariably submit an application in FORM–16 with an affidavit in FORM–3 and FORM–17 for students; FORM–18 with an affidavit in FORM–3 and FORM–19 for employees or service purpose; FORM–20 with an affidavit in FORM–3 and FORM–21 for election purpose; or FORM–22 with an affidavit in FORM–3 and FORM–23 for other purpose, as per his requirement, to the concerned Scrutiny Committee for verification of his caste claim and issue of Caste Validity Certificate, well in time :

Provided that, the Caste Certificate issued to migrant from other State and Caste or Community Certificates issued by Authorities of the States other than the State of Maharashtra, shall not be verified by such Caste Scrutiny Committee.

Rule 17 – Procedure of Scrutiny Committee.

(1) On receipt of application, the Scrutiny Committee shall ensure that the application and the information supplied therewith is complete in all respects and to carry out scrutiny of the application.

(2) Notwithstanding anything contained in these rules, the claimant or applicant or complainant shall be personally responsible for removal of objections raised by Scrutiny Committee, if any, within two weeks or within such extended period, which shall not be more than six weeks, failing which the claim or application or complaint shall be disposed of, by appreciating available records and such decision may be communicated to the applicant by the Scrutiny Committee.

(3) The incomplete application may be rejected by recording reasons.

(4) Notwithstanding anything contained in these rules, it will be the sole responsibility of the claimant or applicant to attend the dates of hearing, either personally or through duly authorized representative.

(5) The roznama of the Scrutiny committee shall be self-evident as to what transpired on a particular day and it shall be signed by all the members of the Scrutiny Committee.

(6) If the Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 Rule 4 of the Code of Civil Procedure, 1908, as well as other evidence and documents furnished along with any application or proposal is satisfied, about the genuineness of Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category claim the scrutiny committee shall forthwith issue Validity Certificate in FORM-20 without enquiry by vigilance cell.

(7) If the Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 Rule 4 of the Code of Civil Procedure, 1908, as well as other evidence and documents furnished along with any application or proposal, is of the opinion that the documents do not satisfy or conclusively prove the Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category claim, the Scrutiny Committee by mentioning the same in the roznama, shall refer such case to the Vigilance Cell for carrying out suitable inquiry, as is deemed fit, by the Scrutiny Committee:

Provided that, findings recorded by the Vigilance Cell shall not be binding on the Scrutiny Committee, as the vigilance inquiry is meant for internal assistance to the Scrutiny Committee. The Scrutiny Committee shall record its reasons for discarding the report of Vigilance Cell.

(8) The Vigilance Cell shall complete the inquiry within six weeks, thereby making suitable inquiry, on all the issues or as specifically directed by the Scrutiny Committee.

(9) Vigilance Inquiry shall be made for respective territorial area of jurisdiction of concerned Scrutiny Committee.

(10) In case of those cases which are referred to Vigilance Cell, upon considering the report submitted by Vigilance Cell, if the Scrutiny Committee is satisfied about the genuineness of Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category claim of claimant or applicant, it shall be lawful to decide the matter finally by its written decision, and forward the copy of decision and Validity Certificate in FORM-24, to the concerned parties or authority, by preserving its scanned copy (in electronic form).

(11) (i) In case of those cases which are referred to Vigilance Cell, upon considering the report of Vigilance Cell, if the Scrutiny Committee is not satisfied about the claim of the applicant, it shall call upon the applicant to prove his Caste claim, by discharging his burden, as contemplated under Section 8 of the Act, by issuing a notice in FORM-25 coupled with copy of report of Vigilance Inquiry;

(ii) After issuance of notice, if applicant requests, by way of written application, for copies of vigilance inquiry report or any other document or prays for adjournment, reasonable time for final hearing or for submitting written submission, it may be granted;

(iii) After affording an opportunity of hearing, Scrutiny Committee shall, –

(a) being satisfied regarding the genuineness of the Caste claim, decide the matter finally, upon appreciation of evidence, by its reasoned decision, i.e., decision of committee and issue Certificate of Validity, in FORM- 24; and forward the same to concerned authorities within thirty days, by preserving its scanned copy (in electronic form);

(b) being not satisfied about the genuineness of the claim and veracity of the Caste Certificate, it shall pass its decision, thereby cancelling and confiscating the original Caste Certificate and invalidating the Caste or Tribe claim of the applicant or claimant;

(c) upon invalidation of Caste or Tribe claim, the Caste Certificate under inquiry shall be stamped as "cancelled and confiscated", and forward the same along with copy of decision, to the Competent Authority and concerned parties, by preserving its scanned copy (in electronic form);

(d) after conclusion of the hearing of the case, the work of writing of the decision shall be assigned to one of its members by the Scrutiny Committee;

(e) in case of difference of opinion amongst the members of Committee, on the main order of majority, the dissenting member shall write his separate order;

(f) The name of member of Committee to whom work of writing final order was assigned, shall be mentioned in the roznama.

Moreover, front page of final order shall disclose the date of the order.

(12) Notwithstanding anything contained in these rules, it is incumbent on the applicant to disclose all the true and correct information, including disclosure of adverse entries or material, failing which, it shall be lawful for the Scrutiny Committee to draw adverse inference.

(13) If the Scrutiny Committee finds and concludes that the report of Vigilance Cell is false or unrealistic, it shall record the reason in decision and direct appropriate action as contemplated under Section 14, read with Section 11 and 12 of the Act and also recommend Departmental inquiry against such Vigilance Officer:

Provided that, an opportunity of being heard be granted to the concerned Vigilance Cell officer prior to any direction for appropriate action. This hearing shall be independent to adjudication of Caste or Tribe claim.

12. A combined reading of the Sections of 2000 Act and Rules of 2012 Rules, makes it clear that a detailed procedure has been prescribed for the Scrutiny Committee to deal with the claim of an applicant seeking validation of caste certificate issued by the Competent Authority. The power to deal with such verification has been specifically vested with Scrutiny Committee and it falls within the exclusive domain of it in view of Rule 13(b) of 2012 Rules. For the purposes of verification, the Scrutiny Committee has all the powers of Civil Court while trying a civil suit and it can further take internal assistance of Vigilance Cell for verification in those cases as and when needed by the Committee. It is pertinent here to note that, as per Rule 13(2)(b), the findings recorded, and opinion expressed by the Vigilance Cell shall not be binding on Scrutiny Committee and nor could be used in evidence for the purpose of claim. Further, Rule 17(6) provides that if the Scrutiny Committee upon appreciation of statement of applicant in prescribed format as well as other evidence and documents furnished along with it, is satisfied about the genuineness of same, then it shall forthwith issue the validity certificate in FORM-20 without enquiry by Vigilance Cell. In other words, the said Rule provides for subjective satisfaction of the Scrutiny Committee when a claim is made and does not

mandate verification in each case by the Vigilance Cell. At this juncture, Section 7(2) of the 2000 Act also assumes significance. It fortifies the exclusive domain of Scrutiny Committee and deals with the finality of the orders passed by Scrutiny Committee under the 2000 Act stating that the orders passed by Scrutiny Committee shall be final and it shall not be open to challenge before any authority or Court except High Court under Article 226 of Constitution of India. The said language used in sub clause (2) clearly reflects the intention of legislature to ensure minimal interference with the orders of Scrutiny Committee.

13. Now reverting to the facts of the instant case, the Scrutiny Committee admitted the claim of Appellant vide order dated 03.11.2017 based on its subjective satisfaction regarding two documents namely, (i) bona fide certificate issued by Khalsa College of Arts, Science and Commerce in favour of Appellant's grandfather mentioning his caste as 'Sikh-Chamar'; and (ii) the Indenture of Tenancy of year 1932 in favour of great grandfather of Appellant as his residence proof, proving his migration from Punjab to Maharashtra prior to issuance of Presidential Order in 1950. The Scrutiny Committee also extensively referred to pedigree table of Appellant tracing the genealogy of caste of Appellant's forefathers as 'Mochi'. The said fact was also affirmed by Vigilance squad which made a personal site visit in Punjab and confirmed the truthfulness/genuineness of the contents of the pedigree documents from the locals as well as authorities concerned. Although the said documents were not admitted by the Scrutiny Committee for them not being in 'complete form', however, notably these documents were neither objected nor debated by the complainant. Be that as it may, once the Scrutiny Committee after hearing the contesting parties and evaluating the documents on record reached on conclusion based on its satisfaction and application of mind, the question that arises for consideration of this Court in the particular facts of this case is that how far the High Court was justified in completely overturning the findings of Scrutiny Committee in exercise of jurisdiction under Article 226 of the Constitution of India by re-appraisal of the entire evidence on record?

14. The entire sum and substance of the Respondents' arguments before this Court and High Court is that the Appellant has forged and fabricated the documents to obtain her caste validity certificate. In our view, it is a disputed question of facts and can only be sustained by leading evidence. Admittedly in the present case, on remand by High Court, the parties appeared before the Scrutiny Committee, filed objections and led evidence. They were heard and after due consideration of all the material brought on record, the Scrutiny Committee, delineated the objections and passed the detailed order validating the caste certificate of the Appellant primarily on the anvil of report submitted by Vigilance Cell and report of home enquiry and also held that other documents produced by the contesting parties are inadmissible. So far as question of admissibility of bona fide certificate dated 11.02.2014 issued in favour of Appellant's grandfather is concerned, the Scrutiny Committee recorded its satisfaction and formed opinion that the said certificate is a competent evidence and held it as admissible after verification of the students' original register which recorded the date of admission of Appellant's grandfather as 16.11.1946. The complainants have not raised any oral or written objection regarding this document before the Scrutiny Committee. The primary grievance of the complainants before the Scrutiny Committee was that they were not allowed to cross-examine the Vice-Principal of the said college who came to present the original record. However, the present case herein is not that the said grievance was not considered by the

Committee or that it had a biased or favourable approach towards the applicant. A perusal of the order passed by Scrutiny Committee reveals that the request of complainants for cross-examination of Vice-Principal was not accepted for the reason that the said person came as a presenter of the original student register on behalf of Principal of the college, and being representative, he does not automatically become witness of the applicant.

15. Now, when the Scrutiny Committee which is principally tasked with the fact-finding exercise for validation of caste claim, had applied its mind and reached a conclusion, then in such a situation, whether a roving enquiry by High Court was required? It is well settled that High Courts as well as Supreme Court should refrain themselves from deeper probe into factual issues like an appellate body unless the inferences made by the concerned authority suffers from perversity on the face of it or are impermissible in the eyes of law. In the instant case, the order passed by Scrutiny Committee reflects due appreciation of evidence and application of mind and in absence of any allegation of bias/malice or lack of jurisdiction, disturbing the findings of Scrutiny Committee cannot be sustained.

16. In view of the above discussion, if we take a look at the findings of the High Court in said perspective and deal with each findings individually, it would rather burden the judgment unnecessarily and therefore, we deem it appropriate to confine our analysis only to those findings by which the High Court has upset the reasonings adopted by Scrutiny Committee to admit those two documents, i.e., the bona-fide certificate of Appellant's grandfather and indenture of tenancy of year 1932 to allow the claim of Appellant. With respect to bona-fide certificate, the High Court opined that the Scrutiny Committee did not deal with the observations made by Vigilance Cell that the original student register was not produced by the Vice-Principal for inspection and that the handwriting and ink of the last two entries made in the said register did not match. The High Court itself perused the coloured photocopy of the last page of the register and affirmed the difference in handwriting and the ink by appreciating the said evidence. On the other hand, insofar as the indenture of tenancy of year 1932 is concerned, the High Court in contradiction with the Scrutiny Committee was of the view that the alleged rent agreement was relied upon by Appellant much later in time, coupled with the fact that it did not make any sense for a landlord and tenant in a private rent agreement to mention the caste of tenant. The High Court further observed that to substantiate the rent agreement, the Scrutiny Committee heavily relied upon the affidavit of one Smt. Radha Adukiya, i.e., the granddaughter of the erstwhile landlord who rented the property in favour of Appellant's grandfather. In the said affidavit, Smt. Akudia deposed that her grandfather rented the property in favour of Appellant's grandfather and further identified his signatures too. Smt. Akudiya at the time of deposition herself was about 82 years of age and she recognized the signatures of her grandfather on an agreement allegedly executed 55 years back. In view of the same, the High Court was of the opinion that Scrutiny Committee failed in not carrying out an enquiry in finding out the authenticity of the said rent agreement. With these primary findings, the High Court quashed and set aside the order of Scrutiny Committee.

17. Having perused the order passed by the Scrutiny Committee and findings recorded by it to reach its subjective satisfaction with respect to claim of Appellant, at this juncture, if we look at the whole exercise carried out by High Court from the perspective of settled principles of law for invocation of

jurisdiction under Article 226 of Constitution of India, particularly in relation of writ of certiorari, it leaves us with no scope of doubt that the High Court has clearly overstepped by reappreciating the evidence in absence of any allegation of mala fide or perversity. As fairly settled by this Court in catena of judgments, the writ of certiorari being a writ of high prerogative, should not be invoked on mere asking. The purpose of a writ of certiorari for a superior Court is not to review or reweigh the evidence to adjudicate unless warranted. The jurisdiction is supervisory and the Court exercising it, ought to refrain to act as an appellate court unless the facts so warrant. It also ought not to reappreciate the evidence and substitute its own conclusion interfering with a finding unless perverse. The High Court in a writ for certiorari should not interfere when such challenge is on the ground of insufficiency or adequacy of material to sustain the impugned finding. Assessment of adequacy or sufficiency of evidence in the case at hand, fell within the exclusive jurisdiction of the Scrutiny Committee and re-agitation of challenge on such grounds ought not have been entertained by High Court in a routine manner.

18. As per the ratio of larger Bench judgment of this Court in ‘Dayaram Vs. Sudhir Batham and Others., (2012) 1 SCC 333’, it reveals that the Court while answering the question as to whether the Civil Courts’ jurisdiction was rightly barred by judgment in Kumari Madhuri Patil (supra), observed that a Scrutiny Committee is not an adjudicating authority like a Court or Tribunal, rather it is an administrative body which verifies the fact, investigates into a specific caste claim and ascertains whether the caste claim is correct or not. It was further observed that permitting civil suits to challenge such proceedings with the provisions of appeal and further appeals would defeat the purpose of the scheme. However, such decisions were rightly made available to challenge in proceedings under Article 226 of the Constitution of India ‘which may be within the parameters for invoking the writ jurisdiction by High Court’ in the judgment of Kumari Madhuri Patil (supra). Though at the same time, the said observation does not explicitly give a wide power in a writ of certiorari which is not within the purview of issuance of such writ merely because of decision of Scrutiny Committee is under challenge.

19. In sum and substance, the writ of certiorari is expended as a remedy and is intended to cure jurisdictional error, if any, committed by the Courts/forums below. It should not be used by superior Court to substitute its own views by getting into fact-finding exercise unless warranted. [See Central Council for Research in Ayurvedic Sciences and Another Vs. Bikartan Das and Others, 2023 SCC OnLine 996 – Para 51 and 52; Syed Yakoob Vs. K.S. Radhakrishnan, AIR 1964 SC 477 – Para 7]. At this juncture, it would also be profitable to refer relevant extract from judgment delivered by this Court in ‘Indian Overseas Bank’ (supra), wherein para 17, it was observed as thus – “17.The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ Court to warrant those findings at any rate, as long as they are based upon such materials which are relevant for the purpose or even on the ground that there is yet another view which can be reasonably and possibly undertaken.....” Such being the situation, in the instant case, the High Court went into a probe regarding credibility of the opinion of the Scrutiny Committee because the writ Court felt the need to substitute its own views. In case if the findings of the Scrutiny Committee are based on the materials specified under Rule 16 followed by its subjective satisfaction, then

exercise of jurisdiction under writ of certiorari to quash the order of validation of caste claim by Scrutiny Committee is unwarranted and uncalled for.

20. In a recent reference in ‘Mah. Adiwasi Thakur Jamat Swarakshan Samiti’ (supra), while answering the question as to ‘whether paramount importance should be given to the affinity test while adjudicating upon a caste claim on the basis of a caste certificate issued by a Competent Authority, or in other words, whether the affinity test is a litmus test for deciding a caste claim’, this Court observed that if the Scrutiny Committee is satisfied with the documents, it need not mechanically forward the same to the Vigilance Cell for verification in a routine manner. Even as per Rule 17(7) of the 2012 Rules, the Scrutiny Committee is not required to send every document to Vigilance Cell. It is only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, it may refer to Vigilance Cell. Therefore, in our considered view, the observations made by the High Court in the case at hand regarding not sending the documents to Vigilance Cell is not justified.

21. Lastly, the documents which are furnished by an applicant before the Scrutiny Committee are a reference point for the Scrutiny Committee to verify the caste claim of an Applicant. In such a case, where the Applicant is tracing the caste genealogy based on documents from pre-Independence era, the task of Scrutiny Committee is to validate or reject a claim of validity certificate based on assessment of documents that are filed by the Applicant. More so, the Scrutiny Committee under Rule 4(3) of the 2012 Rules can even allow caste claim without any supporting documents. Hence, as already discussed above, such adjudication is kept within the exclusive domain of Scrutiny Committee under Rule 13(2)(a) of 2012 Rules.

22. In view of the aforesaid discussion, we are of the considered opinion that High Court inadvertently undertook an erroneous exercise of appreciating evidence in exercise of its jurisdiction under Article 226 of Constitution of India and swayed itself into a roving inquiry which was not expected as per settled legal position. At the cost of repetition, we again observe that under Rule 13(2)(a) of 2012 Rules, the adjudication on the basis of the documents falls solely within the domain of Scrutiny Committee based on the inputs received from the Vigilance Cell. The Scrutiny Committee is an expert forum armed with fact finding authority. The High Court ought not to have interfered, especially when Scrutiny Committee had followed the due procedure under Rule 12, 17 and 18 of the 2012 Rules and that there was nothing perverse about a finding of fact.

23. In the instant case, the Scrutiny Committee duly considered the documents placed before it and after due application of mind on being satisfied, accorded reasons for accepting/validating the caste claim of the Appellant herein while accepting/rejecting other certain documents. The Scrutiny Committee heard all the parties in detail complying with the principles of natural justice. Hence, in our considered opinion, the order of Scrutiny Committee did not merit any interference by the High Court in a ‘writ of certiorari’ under Article 226 of Constitution of India.

24. So far as question as to judicial scope to tinker with Presidential Order is concerned, there is no quarrel that Presidential Order cannot be amended directly or indirectly. However, the whole argument of Respondents to the effect interference by this Court would amount to fiddling with the

Presidential Order is not sustainable for the reason that, the case of the Appellant neither calls for any inquiry into a sub-caste nor does it amend the Presidential Order. The Appellant had claimed 'Mochi', the Scrutiny Committee validated and granted the 'Mochi' caste certificate and 'Mochi' caste is clearly mentioned in Entry 11 of the Presidential Order. The argument of the Respondents that a reserved category in one State cannot be granted benefit of reservation in another State has no bearing in the present case since in the instant case, the Appellant did not claim 'Mochi' caste based on her caste in some other State. Rather, the claim was for 'Mochi' based on genealogical caste history of Appellant's forefathers. The Scrutiny Committee has verified the claim of Appellant holding that Appellant belongs to 'Mochi' caste in accordance with Entry 11 of Presidential Order as application to Maharashtra.

25. Accordingly, in the light of discussion made hereinabove and considering the peculiar facts and circumstances, the instant appeals stand allowed and the impugned judgment passed by the High Court stands set aside. The validation order dated 03.11.2017 passed by the Scrutiny Committee is restored. Pending application(s), if any, shall also stand disposed of. There shall be no order as to costs.

.....J. (J.K. MAHESHWARI)J. (SANJAY KAROL) NEW DELHI;

APRIL 04, 2024.