

GAHC010048522024



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/1394/2024**

NABA KUMAR SARANIA  
S/O- LATE LAKHI KANTA SARANIA, R/O- VILL.- DIGHALIPAR, P.O. AND P.S.  
TAMULPUR, DIST. BAKSA, ASSAM, PIN- 781367.

VERSUS

THE STATE OF ASSAM AND 7 ORS  
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF  
ASSAM, DEPARTMENT OF TRIBAL AFFAIRS (PLAIN), DISPUR, ASSAM, PIN-  
781006.

2:THE CHAIRMAN  
STATE LEVEL SCRUTINY COMMITTEE/  
SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF TRIBAL AFFAIRS (PLAIN)  
DISPUR  
ASSAM  
PIN- 781006.

3:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF TRIBAL AFFAIRS (PLAIN)  
DISPUR  
ASSAM  
PIN- 781006.

4:THE DIRECTOR

DEPARTMENT OF TRIBAL AFFAIRS (PLAIN)  
ASSAM  
RUKMINI NAGAR  
DISPUR  
GUWAHATI

ASSAM  
PIN- 781006.

5:THE JOINT DIRECTOR

ASSAM INSTITUTE OF RESEARCH FOR TRIBALS AND SCHEDULED  
CASTES  
ASSAM  
BASISTHA ROAD  
JAWAHAR NAGAR  
BELTOLA TINIALI  
GUWAHATI  
ASSAM-781022.

6:DISTRICT COMMISSIONER  
BAKSA DISTRICT  
MUSHALPUR  
P.O. AND P.S. MUSHALPUR  
DIST. BAKSA  
ASSAM  
PIN- 781346.

7:THE SUPERINTENDENT OF POLICE  
CID ASSAM  
ULUBARI  
PIN- 781007.

8:JANAKLAL BASUMATARY  
S/O- LATE MRIGENDRA NATH BASUMATARY  
R/O- VILL.- SERPHANGURI  
P.O. AND P.S. SERPHANGURI  
DIST. KOKRAJHAR  
ASSAM  
PIN- 783346

**Advocate for the Petitioner : MR. M SARANIA**

**Advocate for the Respondent : GA, ASSAM**

**BEFORE**

**HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

**For the Petitioner : Shri Salman Khurshid, Sr. Advocate,  
Shri M Sarania, Advocate.**

**For the Respondents : Shri D Saikia, Advocate General,  
Assam,  
Shri K Gogoi, Addl. Sr. Govt.  
Advocate,  
Shri R Dhar, SC, Tribal Affairs  
(Plain) Department,  
Shri D Das, Sr. Advocate, R/8,  
Shri N Das, Advocate.**

**Dates of Hearing : 09.04.2024 & 10.04.2024.**

**Date of Judgment : 18.04.2024.**

**JUDGMENT & ORDER**

The instant petition under Article 226 of the Constitution of India has been filed challenging, *inter alia* the following:

- i. Order dated 06.06.2009 of constitution of a Vigilance Cell in the Directorate of WPT & BC;
- ii. Communication dated 11.07.2019 issued by the WPT & BC Department directing enquiry into the social status of the petitioner;

- iii. Notification dated 05.09.2022 of reconstitution of the State Level Scrutiny Committee (hereinafter SLSC) and
- iv. Speaking order dated 12.01.2024 of the SLSC.

**2.** The challenge nos. i, iii and iv above, are based on the allegation that the same are in violation of the direction of the Hon'ble Supreme Court in the case of *Kumari Madhuri Patil vs. Additional Commissioner, Tribal Development, reported in (1994) 6 SCC 241*. The second prayer has been made by questioning the authority to direct such enquiry on the social status of the petitioner.

**3.** To understand and appreciate the issue and the grounds of challenge vis-à-vis the defence of the respondents, it would be convenient if the facts of the case are narrated in brief. Suffice it to mention that in this writ petition, initially an order was passed on 27.03.2024 by the learned Single Judge granting an interim order suspending the impugned order dated 12.01.2024 of the SLSC and all consequential action. However, the said order was the subject matter of an appeal preferred by the State and 4 other connected respondents being WA 110 / 20204 in which the Hon'ble Division Bench had passed an order dated 03.04.2024 whereby the aforesaid interim order was interfered with and set aside. However, considering the urgency, the matter was directed to be listed before the learned Single Bench for final disposal.

**4.** The facts projected in the writ petition and those emanating from the pleadings and upon hearing is that the SLSC had passed an order dated 12.01.2024 that the petitioner does not belong to Boro/Boro Kachari community, which is a recognized ST(P) community in the State of Assam. It however transpires that pursuant thereto, an order dated 20.01.2024 has been passed by the Government of Assam cancelling the Caste Certificate dated 17.10.2011,

issued in favour of the petitioner.

**5.** I have heard Shri Salman Khursid, learned Senior Counsel, who has appeared online, assisted by Shri M. Sarania, learned counsel for the petitioner. I have also heard Shri D. Saikia, learned Advocate General, Assam, assisted by Shri K. Gogoi and Mr. R. Dhar, learned State Counsel for the official respondents. I have also heard Shri D. Das, learned Senior Counsel assisted by Shri N. Das, learned counsel for the respondent no. 8.

**6.** Shri Khursid, learned Senior Counsel for the petitioner has, at the outset, drawn the attention of this Court to the observations made by the Hon'ble Division Bench in paragraph 32 of the judgment dated 03.04.2024 and has contended that the present consideration is to be made independently as the said order was passed for the limited purpose of disposal of the writ appeal.

**7.** Giving a brief history of the case, Shri Khurshid, the learned Senior Counsel has submitted that the petitioner was granted a caste certificate dated 12.10.2011 by the competent authority by recognizing him to belong to the "Boro Kachari" community which is a Scheduled Tribe (Plains) [hereinafter ST(P)]. On the strength of the said certificate, the petitioner had successfully contested the Parliamentary elections from the Kokrajhar constituency of the State which is a reserved constituency for ST(P) on two occasions and is presently a Member of Parliament. The first election of the petitioner was the subject matter of challenge in an Election Petition which had reached the Hon'ble Supreme Court. However, the election of the petitioner was not interfered with primarily on the ground that the caste certificate of the petitioner was not the subject matter of challenge and therefore, there was no occasion to deal with the same.

**8.** Consequently, the respondent no. 8 had filed a complaint questioning / challenging the caste certificate dated 12.10.2011 of the petitioner and the impugned actions are culmination of the aforesaid complaint.

**9.** The principal contentions of the learned Senior Counsel for the petitioner can be enumerated as follows:

- i. The impugned order dated 12.01.2024 of the SLSC does not contain any discernible reasons and in absence thereof, the same is unsustainable in law.
- ii. The said order dated 12.01.2024 only reproduces the observations of the report of the Vigilance Officer without there being any independent finding.
- iii. The constitution of the SLSC is not as per the guidelines of the Hon'ble Supreme Court in the case of ***Kumari Madhuri Patil*** (supra).
- iv. The procedure adopted in making the enquiry through the Vigilance Cell is improper and not in accordance with the aforesaid guidelines.
- v. The petitioner was deprived of a fair opportunity to defend his case by the SLSC whereby a valuable right of the petitioner has been taken away without following the due process of law.
- vi. The consideration in the entire process was on irrelevant factors and the relevant factors were overlooked.

**10.** Elaborating his submissions, Shri Khurshid, the learned Senior Counsel has referred in detail to the guidelines of the Hon'ble Supreme Court in the case of

***Kumari Madhuri Patil*** (supra) which is given in paragraph 13 thereof. For ready reference, the said guidelines are reproduced hereinbelow:

*"13. ... For that purpose, it is necessary to streamline the procedure for the issuance of a 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 of groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the concerned Directorate.*
- 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 office higher in rank of the Director of the concerned department, (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.*

*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 also should 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 and dead bodies etc. by the concerned castes or tribes or tribal communities 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 acknowledgment due or through the head of the concerned educational institution 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 / Addl. 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.*

*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 finalising 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 the 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 concerned educational institution or the appointing authority by registered post with acknowledgment 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 for further study or continue in office in a post."*

**11.** Shri Khursid, learned Senior Counsel for the petitioner has submitted that from the records it would appear that there was a first enquiry by an Inspector who was assigned by the Vigilance Cell to enquire into the complaint in which a

report dated 23.10.2019 was submitted. The said report having culminated in a finding in which the complaint/allegation was not found to be substantiated, it is argued that there was no occasion to re-open the issue by directing a second enquiry. The learned Senior Counsel has referred to the various pages of the Reports as well as the impugned order dated 12.01.2024 from where it becomes clear that there were two Reports by the Inspector concerned.

**12.** It is submitted by Shri Khursid, learned Senior Counsel that the issue is not as to whether the "Saranja Community" is to be treated as an ST(P) and the entire issue has been sought to be mixed up by the authorities. He has explained that "Saranja" is only a surname which is adopted by those persons who takes "Saran" and by such adoption, there is no change in the social status of an incumbent. In any case, It is submitted that the caste certificate dated 12.10.2011 has described the petitioner as "Boro Kachari" and not as a "Saranja" and therefore, the use of "Saranja" as the surname will have no bearing in the adjudication of the present */is*. It is submitted that though a stand has been taken by the State that an earlier notification dated 15.06.2018 by which the "Saranja" community was to be treated as ST(P) was later on withdrawn, the same would not have any relevance in this case as the claim of the petitioner is never on the basis that "Saranja" community is ST(P). It is submitted that in absence of any findings that the first Vigilance Report was incorrect by the competent authority, the Second Enquiry culminating in the report dated 04.02.2020 could not have been directed.

**13.** By referring to the case of ***Kumari Madhuri Patil*** (supra), more particularly, paragraph 13(4), it is submitted that the SLSC was to be constituted with three members, namely-

- i. Addl. or Jt. Secretary or any officer higher in rank of the Director

of the Department concerned.

- ii. Director, Social Welfare / Tribal / Backward Class Welfare, as the case may be.
- iii. In the case of ST, a Research Officer who has intimate knowledge in identifying the Tribes.

As per paragraph 13(5) of the said judgment, each Directorate should constitute a Vigilance Cell of -

- i. Senior Deputy Superintendent of Police in overall charge and
- ii. Such numbers of Police Inspectors to investigate into the social status claims.

**14.** It is submitted that vide notification dated 11.05.2018, the Superintendent of Police, CID has been nominated as a Member of the SLSC and the guidelines of ***Kumari Madhuri Patil*** (supra) have been mixed up by the State so far as constitution of the Vigilance Cell and the SLSC are concerned.

**15.** Reference has also been made to paragraph 13(7) of ***Kumari Madhuri Patil*** (supra), to gather support to the submission that a second inquiry was not permissible. In this connection, he has also referred to a Corrigendum dated 01.03.2024 which has been annexed with the affidavit-in-opposition (page 201 of the paper book) from which it will be clear regarding the two reports. It is otherwise submitted that in absence of a speaking order by the Committee, the second inquiry could not have been made even if it is presumed to be a continuation of the first report dated 23.10.2019. It is submitted that a finding has to be recorded as to why such a recourse was adopted.

**16.** Assailing the procedure adopted by the SLSC, Shri Khursid, the learned

Senior Counsel has submitted that the said procedure is in gross violation of the principles of natural justice inasmuch as, the petitioner was deprived of a fair opportunity to defend himself. There was no opportunity for cross examination of the witnesses and no enquiry, as such was done by the SLSC which is required as per the guidelines in ***Kumari Madhuri Patil*** (supra). Though it is conceded that the petitioner was given a personal hearing, there is a requirement to make further inquiry which was not done.

**17.** The learned Senior Counsel for the petitioner has submitted that the order dated 12.01.2024 of the SLSC is not a reasoned speaking order. It is submitted that certain observations of the vigilance report dated 04.02.2020 were taken into consideration but there are no independent findings of the Committee which renders the order bad in law. It is submitted that the Committee had accepted the report dated 04.02.2020 without any application of mind and the materials which were on record and would have had a bearing in the decision making process have been overlooked. It is submitted that the emphasis was more on the use of the surname "Deka" and "Sarania" which were not the relevant aspects. Reference to the use of surname "Das" by the father of the petitioner would also have no bearing in the decision making process as the issue was on the aspect as to whether the petitioner belongs to the ST(P) community. Reference has also been made to the statement of the sister of the petitioner, who also had ST(P) certificate. He has also referred to a land document wherein the petitioner has been included as a pattadar. It is also argued that from Legislative Assemblies Constituencies in the State of Assam which are reserved for ST(P), different representatives with surname like "Das", "Deka", "Patgiri", "Baruah" etc. have been elected and therefore, the use of surname of "Sarania" by the petitioner cannot be a factor to come to a

conclusion that he does not belong to an ST(P).

**18.** The learned Senior Counsel for the petitioner has questioned the constitution of the SLSC both on the ground of the numbers as well as the presence of the Superintendent of Police (CID) and the requirement of a Research Officer having intimate knowledge on Tribes in case of ST. It is submitted that the guidelines do not contemplate inclusion of a police personnel in the Committee and therefore, there is gross violation. He otherwise submits that such inclusion would not be a fair procedure inasmuch as, the report made by an Inspector of Police who is a part of the Vigilance Cell is the subject matter of consideration and therefore, there would be a likelihood of bias. It is argued that the Committee in question has also not fulfilled the requirement of having the particular Research Officer.

**19.** In support of his submissions, Shri Khursid, learned Senior Counsel has relied upon the following case laws-

- i) Judgment dated 04.04.2024 in **Civil Appeal Nos. 2741-2743/2024** (***Navneet Kaur Harbhajansing Kundles Vs. State of Maharashtra***);
- ii) Order dated 24.03.2023 in **Civil Appeal No. 2502/2022** of the Hon'ble Supreme Court (***Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & Ors.***);
- iii) **(2021) 9 SCC 811** (***J. Chitra Vs. District Collector & Ors.***).
- iv) Order dated 10.06.2009 of the House of Lords, reported in **(2009) UKHL 28** (***Secretary of State for Home Department Vs. AF & Anr.***).

**20.** The case of ***Navneet Kaur*** (supra) has been cited to bring home the contention that though in the State of Maharashtra, Rules have been framed as per the guidelines of ***Kumari Madhuri Patil*** (supra), such Rules are generic in

nature and would be applicable. In the said case, it is contended that the decision not to cancel a caste certificate by the Scrutiny Committee which was interfered with by the High Court has been upheld by setting aside the judgment of the High Court.

**21.** The case of ***Mah. Adiwasi Thakur Jamat Swarakshan Samiti*** (supra) has been cited to contend that the power of remand is to be exercised only by the Scrutiny Committee if the said Committee is not satisfied. It is contended that the Vigilance Cell could not have exercised such power of directing a second inquiry.

**22.** In the case of ***J. Chitra*** (supra), by relying upon the findings in paragraph 10, it is contended on behalf of the petitioner that once the District Vigilance Committee had come to a finding regarding the authenticity of the certificate, the issue should not be re-opened by the Scrutiny Committee.

**23.** In the case of ***Secretary of State for Home Department*** (supra), the House of Lords reiterated the requirement of maintaining fairness in any proceeding wherein an adequate opportunity of hearing is held to be a *sine qua non* for a fair trial.

**24.** Strenuously opposing the writ petition, Shri D Saikia, learned Advocate General, Assam has submitted that there are no sustainable grounds of challenge in the petition. By drawing the attention of this Court to the prayer of the writ petition, it is contended that there is challenge to only four specific orders/communications, namely, order dated 06.06.2009 of constitution of the Vigilance Cell, communication dated 11.07.2019 directing enquiry into the social status of the petitioner, notification dated 05.09.2022 of reconstitution of the SLSC and the order dated 12.01.2024 of the SLSC. However, the actual order



dated 20.01.2024 of cancellation of the ST(P) Certificate has not been challenged. It is submitted that apart from the fact that the aforesaid order was transmitted to the petitioner by e-mail on 13.02.2024 which was received, the records reveal that the respondent no. 8 had also filed a caveat on 07.02.2024 on the said issue. Though long thereafter, the instant writ petition was filed on 04.03.2024, the same has not been challenged. The learned AG has gone to the extent of contending that even after bringing the said order dated 20.01.2024 on record by way of the additional affidavit-in-opposition dated 20.03.2024, no action has been taken for amending the writ petition or making a challenge thereof. It is accordingly submitted that no relief can be granted to the petitioner.

**25.** The learned AG, by referring to the prayer has submitted that there is a vague interim prayer to stay consequential orders without any prayer for setting aside which is not permissible. In this connection, he has referred to the decision of ***State of Himachal Pradesh Vs. Himachal Pradesh Nizi Vyavsayik Prishikhan Kendra Sang***, reported in **(2011) 6 SCC 597** wherein, it has been laid down that when relief was not sought for by a litigant, the High Court should not embark upon such matters.

**26.** Referring to the grounds of challenge, as would reveal from the petition, the learned AG has submitted that none of the grounds are sustainable or are with any basis. The State Counsel, by referring to the affidavit-in-opposition filed on 18.03.2024 has at the outset clarified that so far as the State of Assam is concerned, no Rules have been framed following ***Kumari Madhuri Patil*** (supra). However, an Office Memorandum, being No. TAD/BC/855/2013/152, dated 11.05.2018 has been framed as per which, initially two Vigilance Cells were created in view of the existence of the two Directorates concerning the subject.

The investigation was to be done by an Inspector and the report was to be submitted to the concerned Directorate whereafter, the Director is required to issue a show cause notice and the incumbent against whom the complaint has been lodged is to be given an opportunity of hearing. Reference has also been made to the Notification No. TAD/BC/855/2013/153, dated 11.05.2018 issued pursuant to the OM of the same date constituting the SLSC of five members. It has been clarified that though the notification appears to be of six members, the Directors of both the Directorates have been named and depending upon the complaint, the concerned Director would be a member.

**27.** As regards the submission made on behalf of the petitioner that there is violation of the guidelines of ***Kumari Madhuri Patil*** (supra) while constituting the SLSC, the learned AG has submitted that the original guidelines were modified by a subsequent order by the Hon'ble Supreme Court in the same case which has been reported in **(1997) 5 SCC 437** wherein, the number of members of the SLSC was increased from 3 to 5 with a quorum of 3 members. It is pointed out that there was no prescription with regard to the 4<sup>th</sup> and 5<sup>th</sup> member. He, therefore, submits that inclusion of the SP (CID) cannot be objected to, which would also be justified in case of a requirement of further inquiry by the SLSC if an incumbent makes a demand.

**28.** The learned AG has made further clarification that on 02.11.2022, the Department of Administrative Reforms, Government of Assam had created 3 new Departments which includes the Department of Tribal Affairs (Plain). In the said notification, against Sl. No. 5 (7), the said Department was entrusted with matters relating to SLSC. Accordingly, on 05.09.2022, the SLSC was reconstituted with 5 members.

**29.** Countering the allegation of lack of a member in the Committee having knowledge on Tribes, the learned AG has submitted that the 5<sup>th</sup> member is the Joint Director of Assam Institute of Research on Tribal and Scheduled Caste. By drawing the attention of this Court to the averments made in the affidavit-in-opposition filed on 18.03.2024, the learned AG has submitted that the said Officer is Shri Ganesh Chandra Kakati who is a Post Graduate in Anthropology and is connected with the Department since the year 1996 and has been guiding research officials in more than 35 research topics and more than 60 seminar topics. He has also authored/co-authored a number of books on the subject and detailed pleadings in this regard has been made in paragraphs 15 (iii) and 15 (v) of the said affidavit-in-opposition filed on 18.03.2024.

**30.** Dealing with the submission that with the inclusion of the SP (CID) in the SLSC, there would be likelihood of bias, the learned AG has submitted that apart from such inclusion being in consonance with the subsequent order of the Hon'ble Supreme Court in ***Kumari Madhuri Patil*** (supra) whereby the number of members were increased, the Vigilance Cell which was to conduct the inquiry does not have the SP (CID) as a member and it is only the Dy. SP who is a part of the said Cell. It is clarified that the State of Assam does not have a post of Sr. Dy. SP unlike the other States. He has reiterated that the presence of the SP (CID) would otherwise be necessary in case of requirement of any further inquiry, if demanded by the incumbent.

**31.** Coming to the facts of the case, the learned AG has submitted that pursuant to Article 342 of the Constitution of India, Central Order No. 22 of 1950 was issued and so far as the BTAD area of Assam is concerned, "Boro" and "Boro Kachari" are mentioned to be Scheduled Tribe (Plains). There is no mention about any "Sarania Kachari" and therefore, there cannot be any claim

raised that by virtue of being a Sarania Kachari, the petitioner would be an ST(P).

**32.** He further submits that the records would reveal that on 11.06.2019, a complaint was lodged by the respondent no. 8 challenging the social status of the petitioner as ST(P). The said complaint was examined by the Vigilance Cell which, vide a communication dated 30.07.2019 had entrusted one Shri Jadu Ram Malakar, Inspector to inquire into the complaint. The said communication reveals that three complaints were directed to be inquired into, including the complaint against the petitioner, which is at Sl. No. 2. The said officer had issued a communication dated 23.10.2019, including a finding on the complaint against the petitioner which is as follows:

*"(2) For verification of caste certificate of Naba Kr. Sarania, MP Kokrajhar HPC, S/o. Lt. Lakhi Kt. Sarania of Dighelipar, PS-Tamulpur, Dist. Baksa, I visited the given address, examined the person noted and prominent persons of that locality and found that the said person belongs to Soronia Kochari Community which is under the purview of ST(P) category. In this regard, I collected the copy of letter issued by Govt. of Assam Department of Welfare of Plain Tribes and Backward Classes, Dispur, Guwahati referred to letter no. TAD/BC/291/2014/105 dtd. 15<sup>th</sup> of June 2018 addressed to Deputy Commissioner of Districts of Assam and all SDO (Civil) of Assam directing to issue ST(P) certificate to Sarania Kachari Community as Kachari Tribes in Assam. For ready reference, I am enclosing the photocopy of caste certificate along with the Govt. letter as ready reference which is annexed as Annexure-'B'."*

It was accordingly held that the petitioner belongs to ST(P) Community.

**33.** Dealing with the aforesaid report and its contents, the learned AG has submitted that the entire basis of the findings of the report was a notification dated 15.06.2018. He has, however, informed that the said notification was the subject matter of challenge in **PIL No. 30/2019 (*Kalbari Educated Unemployed Youth Society & Anr. Vs. Union of India & Ors.*)**. In the said PIL, an order was passed by this Court on 01.03.2023 whereby the statement made by the concerned government official was recorded that the impugned notification was being withdrawn. He submits that in fact, vide a notification dated 28.02.2023, the earlier notification dated 15.06.2018 was withdrawn by the Government of Assam.

**34.** The learned AG has also referred to another proceeding of this Court in **WP(C)/2580/2014 (*Janaklal Basumatary & Anr. Vs. State of Assam*)** in which an interim order was passed directing not to issue any such certificate which is not covered by the Central Order No. 22 of 1950. Subsequently, the issue being settled, the said writ petition was closed vide order dated 03.02.2023. The learned AG has submitted that though it is a matter of fact that vide Second Amendment Bill of 2011, the Sarania Kachari is being considered to be brought under the ST(P), the said Bill has not fructified into an Act and therefore, there is no ambiguity to the issue that Sarania Kachari is not ST(P).

**35.** On the aspect that there were two reports by the Vigilance Cell, the learned AG by drawing the attention of this Court to the report dated 04.02.2020 has submitted that the same would clearly reflect that the said report is in continuation of the previous report which was in fact submitted by the same Inspector, Shri Jadu Ram Malakar. It is submitted that the first report was admittedly based on a wrong premise and therefore, a proper inquiry was

required in terms of the guidelines of ***Kumari Madhuri Patil*** (supra). It is submitted that the findings of the said report dated 04.02.2020 would show that all relevant factors were taken into consideration which would constitute the affinity test, as contemplated by the guidelines. The factum of marriages which was found to be solemnized by following mainstream rites, statement of Smt. Dipanita Sarania, sister of the petitioner that she belongs to the Sarania Community, statement of the President of the ABSU, Tamulpur Unit that the petitioner belongs to Koch Community, NRC Legacy data which terms the father of the petitioner as "Sarukoch" etc. have been taken into consideration. It is after the said inquiry that the show cause notice was issued to the petitioner on 11.03.2020 annexing the report dated 04.02.2020. The learned AG submits that on the ground of Covid situation, the petitioner had sought extension which was granted and on 31.08.2020 he had submitted his reply in which there was a request for giving him a personal hearing. It is submitted that there was no objection raised at any point of time by the petitioner on the constitution of the SLSC or its composition. It is also pointed out that there was no request, whatsoever for adducing any evidence by the petitioner. Consequently, vide a minutes dated 14.09.2020, the Director Vigilance Cell had referred the matter to the SLSC. The petitioner had appeared before the SLSC on 11.11.2020 and in the additional written submission dated 21.12.2020 before the SLSC, the petitioner has clearly admitted that he was given a patient hearing for which he was grateful.

**36.** By referring to the affidavit-in-opposition filed on 18.03.2024, the learned AG has submitted that it is the categorical case of the respondents that copies of all relevant documents were furnished to the petitioner and he had never objected to the constitution or composition of the SLSC. With regard to the

objection raised on behalf of the petitioner that minutes were recorded by the SLSC, it is submitted by the learned AG that since a speaking order was passed, there is no requirement of any such minutes. It is contended that the Speaking Order dated 12.01.2024 contains the entire narration of the facts, the relevant observations of the Vigilance report and the findings.

**37.** On the aspect of the sacrosanctity of the Presidential Order of 1950, the learned AG has referred to the following case laws:

i) (1996) 3 SCC 576 (*Nityanand Sharma & Anr. Vs. State of Bihar & Anr.*);

ii) (1994) 1 SCC 359 (*Palghat Jilla Thandan Samudhaya Samrakshna Samithi & Anr. Vs. State of Kerala*);

iii) AIR 1965 SC 1557 (*Bhaiya Lal Vs. Harikishan Singh & Ors.*);

iv) (2001) 1 SCC 4 (*State of Maharashtra Vs. Milind & Ors.*).

**38.** In the case of *Bhaiya Lal* (supra), a Constitution Bench of the Hon'ble Supreme Court, after discussing the Presidential Order of 1950 issued under Article 341 of the Constitution of India has made it clear that it is the prerogative of the Parliament to include or exclude from the said list. In the subsequent case of *Milind* (supra), another Constitution Bench of the Hon'ble Supreme Court has reiterated the said principle and has clearly laid down that the State does not have any power to amend/tinker with the Presidential Order of 1950.

**39.** Adverting to the case of *Navneet Kaur* (supra), it is submitted by the learned AG that the said decision, rather than coming to the aid of the petitioner would support the case of the respondents. It is submitted that in the said case, the Hon'ble Supreme Court was dealing with a dispute pertaining to the State of

Maharashtra where there is an Act whereas in the State of Assam, there is an Office Memorandum framed by following the guidelines of ***Kumari Madhuri Patil*** (supra). The aforesaid aspect has been clearly mentioned in paragraph 10 of the said judgment, wherein the relevant sections of the Act have also been quoted. It is submitted that the procedure adopted in the verification exercise is slightly different in the State of Assam as in the State of Maharashtra, the matter of verification goes from the Scrutiny Committee to the Vigilance Cell whereas in Assam, the inquiry is done by the Vigilance Cell and the consequential action of considering the reply to the show cause notice is done by the Scrutiny Committee. Though there is a provision for further inquiry by the Scrutiny Committee as per the notification dated 11.05.2018, the same is done when a request/demand is made by the incumbent.

**40.** The learned AG further submits that in the present case, there is neither any allegation of bias or *mala fide* nor of any arbitrary or unreasonable action of the respondents. He submits that the jurisdiction of this Court under Article 226 of the Constitution of India is supervisory in nature and a roving inquiry is not contemplated to be a part of judicial review. The learned AG finally submits that the reply to the show cause notice as well as the additional written statement of the petitioner would clearly show that the petitioner, at no point of time had raised any objection on the entire aspect of the matter and had, rather expressed his full satisfaction on the procedure adopted and the opportunities granted to him. It is submitted that the petitioner is not a layman but a Member of Parliament for two terms and therefore, there is no scope to contend that he was not aware of the intricacies. The materials on record would also show that the petitioner was assisted by Advocates before the SLSC.

**41.** Supporting and endorsing the stand of the State, Shri D Das, learned



Senior Counsel appearing for the respondent no. 8 has submitted that a fair procedure was adopted and the impugned order 12.01.2024 has been passed by following the due process of law. He submits that the Scrutiny Committee is an administrative body and not an adjudicating authority. The said Committee verifies facts and examines the materials on the social status. Though such decision would be amenable to the jurisdiction of a writ court, any legal challenge in a court of law, mostly civil courts, would defeat the scheme as there is gross misuse of such certificates. In this regard, Shri Das has relied upon the case of **Dayaram Vs. Sudhir Batham & Anr.**, reported **(2012) 1 SCC 333**. He has pointed out that the aforesaid case has also been referred in paragraph 18 of the latest case of **Navneet Kaur** (supra). For ready reference, the relevant portion of **Dayaram** (supra) is extracted hereinbelow:

*"35. The scrutiny committee is not an adjudicating authority like a Court or Tribunal, but an administrative body which verifies the facts, investigates into a specific claim (of caste status) and ascertains whether the caste/tribal status claimed is correct or not. Like any other decisions of administrative authorities, the orders of the scrutiny committee are also open to challenge in proceedings under Article 226 of the Constitution. Permitting civil suits with provisions for appeals and further appeals would defeat the very scheme and will encourage the very evils which this court wanted to eradicate. As this Court found that a large number of seats or posts reserved for scheduled castes and scheduled tribes were being taken away by bogus candidates claiming to belong to scheduled castes and scheduled tribes, this Court directed constitution of such scrutiny committees, to provide an expeditious, effective and efficacious remedy, in the absence of any statute or a legal framework for proper verification of*

*false claims regarding SCs/STs status. This entire scheme in Madhuri Patil will only continue till the concerned legislature makes appropriate legislation in regard to verification of claims for caste status as SC/ST and issue of caste certificates, or in regard to verification of caste certificates already obtained by candidates who seek the benefit of reservation, relying upon such caste certificates."*

**42.** Shri Khurshid, learned Senior Counsel, in his rejoinder argument, has submitted that even if it is assumed that the subsequent report 04.02.2029 of the Vigilance Inspector is a continuation of the first report dated 23.10.2019, there is no material on record as to why a second inquiry was directed. With regard to the objection that the consequential order of cancellation dated 20.01.2024 has not been challenged, the learned Senior Counsel for the petitioner has submitted that there was urgency in the matter as the elections are approaching in which the petitioner intends to contest. He further submits that when the root of the matter has been put to challenge, failure to specifically challenge the consequential order would not have a conclusive bearing. He further submits that the case law of ***State of Himachal Pradesh*** (supra) cited by the State is distinguishable inasmuch as in the said case, the root cause was not challenged.

**43.** The learned Senior Counsel for the petitioner further submits that though there may not be anything on record to show that the petitioner had sought a further inquiry by the SLSC, the demand for personal hearing would also include such an aspect. He reiterates that none of the grounds cited in the show cause reply have been taken into consideration in the impugned order dated 12.01.2024 which is also bereft of any reasoning.

**44.** The learned Senior Counsel for the petitioner also relied upon the case of

***Bachhaj Nahar Vs. Nilima Mandal***, reported in **(2008) 17 SCC 491** wherein, it has been laid down that even in absence of specific pleadings, a point which has been understood by the parties to the */is* can be taken up for consideration.

**45.** The rival contentions advanced by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

**46.** At the outset, it is made clear that the present adjudication is done independently and without being influenced by any observations made by the Hon'ble Division Bench in the judgment and order dated 03.04.2024 in W.A./110/2024. Though certain observations on merits have been made in the said order, more particular in paragraphs 25, 26, 27, 30 and 32, the necessary clarification has been made in paragraphs 31 and 32 regarding an independent adjudication. That apart, the Hon'ble Division Bench was only considering the legality / correctness of the grant of an interim order by the learned Single Judge which was interfered with by the Division Bench vide the aforesaid judgment and order dated 03.04.2024 and the matter was remanded for an expeditious disposal.

**47.** At this juncture, it is also necessary to take into consideration the preliminary objection taken on behalf of the State that the final order dated 20.01.2024 of cancellation the caste certificate not being challenged, no relief can be granted to the petitioner. The said order which has been brought on record by way of additional affidavit filed on 20.03.2024 would show that the same has been issued pursuant to the speaking order dated 12.01.2024. It also transpires that the said order was communicated to the petitioner by e-mail on 13.02.2024 and the respondent no. 8 had also filed the caveat regarding the said order on 07.02.2024. It is almost a month thereafter, the writ petition was

filed on 04.03.2024. Ideally, the aforesaid order of cancellation dated 20.01.2024 should have been a part of challenge which has not been done. This Court is unable to accept the submission made on behalf of the petitioner that since there was urgency as the elections were approaching, the said order could not be specifically challenged. However, having held that, this Court is of the opinion that the order of cancellation being a consequential order of the Speaking Order dated 12.01.2024 which has been challenged, interest of justice may not permit the petitioner to be non-suited to maintain the present writ petition.

**48.** It is strenuously submitted on behalf of the petitioner that the issue of "Sarana Kachari", vis-a-vis the notifications dated 15.06.2018 and 28.02.2023 will not have any relevance in the present writ petition inasmuch as, the caste certificate of the petitioner does not specify the caste to be "Sarana Kachari" but has been termed as "Boro Kachari" and therefore, the further reference to the Presidential Order No. 22 of 1950 is wholly irrelevant. It has also been submitted that the use of the surname "Sarana" would not be the determining factor for ascertaining the social status (caste) of the petitioner.

**49.** In the opinion of this Court the aforesaid submissions made on behalf of the petitioner appear to be correct as the caste mentioned in the certificate dated 12.10.2011 is "Boro Kachari" and further the surname will not be the determining factor. However, having held that, the aforesaid facts would be relevant to examine the other aspect of challenge, namely, the validity of the vigilance report dated 04.02.2020 which has been termed by the petitioner as second report. Though the said expression "second" finds place in a number of documents, it is equally true that the said report has been stated to be in continuation of the previous report dated 23.10.2019. This Court has noticed

that both the reports were submitted by the same Vigilance Inspector, one Shri Jadu Ram Malakar.

**50.** To examine the aforesaid aspect, the first report dated 23.10.2019 is required to be scrutinized. The said report has proceeded on the presumption that the petitioner belongs to the "Saranja Kachari" community which is an ST(P) and specific mention has been made to the notification of the Government of Assam dated 15.06.2018 whereby the State Government had directed issuance of ST(P) certificate to the "Saranja Kachari" community. Without even commenting on the aspect of the validity of such notification of the State to confer ST status which is otherwise not permissible in law, the caste certificate of the petitioner is of the year 2011 and the Government notification came in the year 2018. Apart from the fact that the aforesaid Government notification dated 15.06.2018 was withdrawn on 28.02.2023, the said notification was wholly irrelevant as the caste of the petitioner was mentioned not as "Saranja Kachari" but "Boro Kachari" in the certificate. In any case, the report dated 23.10.2019 of the Vigilance Inspector cannot be said to be a report which has been prepared in terms of the guidelines of ***Kumari Madhuri Patil*** (supra) as none of the tests prescribed, appear to have been done. There was no affinity test and no materials have been recorded except for referring to the Government Notification dated 15.06.2018 which had no relevance.

**51.** This Court is also of the view that the first report dated 23.10.2019 was a part of the investigation which did not vest any right to the petitioner as the same was never communicated to him. This Court does not find any illegality in proceeding with further investigation which has culminated in the report dated 04.02.2020. This Court finds force in the submission of the learned AG, Assam that it is a composite report. In the case of ***J Chitra*** (supra) cited on behalf of

the petitioner, in paragraph 10, the following has been laid down:

*"10. In the instant case, an inquiry was conducted by the District Level Vigilance Committee which has upheld the community certificate in favour of the Appellant. The decision of the District Level Vigilance Committee in the year 1999 has not been challenged in any forum. The recognition of the community certificate issued in favour of the Appellant by the District Vigilance Committee having become final, the State Level Scrutiny Committee did not have jurisdiction to reopen the matter and remand for fresh consideration by the District Level Vigilance Committee. The guidelines issued by G.O.108 dated 12.09.2007 do not permit the State Level Scrutiny Committee to reopen cases which have become final. The purpose of verification of caste certificates by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste certificates would be detrimental to the members of Scheduled Castes and Scheduled Tribes. Reopening of inquiry into caste certificates can be only in case they are vitiated by fraud or when they were issued without proper inquiry."*

The facts in the aforesaid case of **J Chitra** (supra) would make it clear that in the concerned State of Tamil Nadu, there was a notification, being GO No. 108, dated 12.09.2007 which does not permit the SLSC to re-open the cases which have become final. In the present case at hand, there was no such notification and the show cause notice was issued after the report dated 04.02.2020 was given.

**52.** Though a submission has been made on behalf of the petitioner at the time of argument questioning the nomination of the SP (CID) as a part of the SLSC, the notification dated 11.05.2018 is not a part of the challenge. On the

aspect of the allegation of violation of the guidelines of ***Kumari Madhuri Patil*** (supra) while constituting the SLSC, this Court has noted that the original guidelines were modified by a subsequent order by the Hon'ble Supreme Court in the same case which has been reported in **(1997) 5 SCC 437** wherein, the number of Members of the SLSC was increased from 3 to 5 with a quorum of 3 Members. This Court has also noted that there was no prescription with regard to the 4<sup>th</sup> and 5<sup>th</sup> Members. This Court also finds force in the contention made on behalf of the State that inclusion of the SP (CID) is justified as there may be requirement of a further inquiry by the SLSC if an incumbent makes a demand. This Court has also noticed that at no earlier point of time, such objections were ever raised by the petitioner.

**53.** Regarding the argument on behalf of the petitioner on the aspect of likelihood of bias by the inclusion of the SP (CID) in the SLSC, this Court finds the submission made on behalf of the State reasonable that such inclusion is in consonance with the subsequent order of the Hon'ble Supreme Court in ***Kumari Madhuri Patil*** (supra) whereby the number of members were increased. Further, the Vigilance Cell which was to conduct the inquiry does not have the SP (CID) as a member and it is only the Dy. SP who is a part of the said Cell. This Court further finds it reasonable that the presence of the SP (CID) may be necessary in case of requirement of further inquiry, if demanded by the incumbent. This Court has noticed that in the OM dated 11.05.2018, more particularly Clause 4, it is laid down that the candidate may seek an opportunity of hearing and request for an enquiry after submission of his show-cause reply. In the instant case, though the petitioner had made a request for personal hearing which was admittedly given acceded to, he did not make any request for any inquiry.

**54.** Dealing with the aspect of maintaining fairness in the procedure adopted while examining the challenge to the caste certificate of the petitioner, this Court is of the view that pursuant to the guidelines of ***Kumari Madhuri Patil*** (supra), the State of Assam has published an OM of 11.05.2018 followed by a notification of the same date. There being no challenge to the said OM and notification both dated 11.05.2018, this Court has to examine as to whether the procedure adopted is in consonance with the same. On a scrutiny, the procedure adopted appears to be in sync with the said OM and notification. This Court has noted that after the report dated 04.02.2020 was submitted by the Vigilance Cell, a show-cause notice was issued to the petitioner by the Director along with a copy of the said report. The petitioner had replied to the said show cause notice on 31.08.2020 after his prayer for extension of time was granted. The petitioner had also filed an additional written submission before the SLSC on 21.12.2020 after the matter was referred to the SLSC on 14.09.2020. In the additional submission, in the 3<sup>rd</sup> paragraph, the petitioner admits about his appearance before the SLSC along with his learned Advocates on 11.11.2020. In paragraph 7 of the said reply, there is a clear admission by the petitioner of being given a patient hearing by the SLSC. The impugned order dated 12.01.2024 also records that the petitioner was heard in person. This Court has further noticed that there was no objection in the said replies regarding the constitution of the SLSC or its composition. This Court is also of the opinion that not maintaining a minutes of the meeting with regard to the Speaking Order 12.01.2024 would not vitiate the proceedings as the order contains all the background facts and the narrations. Under those circumstances, this Court is unable to accept the submission made on behalf of the petitioner that the procedure was unfair or was not transparent.



**55.** Now let us come to the ground of the challenge to the order dated 12.01.2024 of the SLSC that it does not contain any reasons. It is contended on behalf of the petitioner that only the findings of the vigilance report dated 04.02.2020 have been extracted. To examine the said aspect, this Court has carefully looked into the said order.

**56.** The speaking order narrates the entire background of the case and also the relevant directions of the Hon'ble Supreme Court in the case of ***Kumari Madhuri Patil*** (supra). It is true that the SLSC has taken into consideration the findings of the Vigilance report dated 04.02.2020. The aforesaid report of the Vigilance Committee has been carefully examined and under the heading "Findings", the Vigilance Officer has given findings in 15 paragraphs based on the facts and the materials collected. The report reveals many important aspects, including the elements of an affinity test. The SLSC in the impugned speaking order has taken into consideration all the relevant findings of the said report of the Vigilance Officer. The use of surnames like "Sarukoch", "Das", "Deka" by the parents and grandparents of the petitioner which were not listed under "Boro Kachari", statement of the sister of the petitioner that she belong to "Sarania" community, Admission Register of the Tamulpur Govt. M.V. School for the year 1982 in which the petitioner studied, employment document of the father of the petitioner with the Assam Regimental Centre, Shillong, statement of one Shri Ramen Rabha, the permanent Government Gaonburah that the petitioner belongs to "Koch" community, NRC legacy data of the petitioner, land document etc have been noted by the SLSC.

**57.** This Court is of the considered opinion that the findings of the SLSC in the impugned order dated 12.01.2024 cannot be termed as based on no materials. This Court is of the further opinion that all the aforesaid factors are relevant and

germane to the issue which were taken into consideration and the order having been passed after giving adequate opportunity to the petitioner, there may not be any requirement for further analysis of the reasons aforesaid.

**58.** This Court has also carefully examined the recent case of **Navneet Kaur** (supra), relied upon by the petitioner. In the said case, the Hon'ble Supreme Court was examining a *lis*. wherein the incumbent, like the present case had also successfully contested the Parliamentary Election of 2019. Though the interference of the Hon'ble Division Bench with the caste certificate in question has been set aside by the Hon'ble Supreme Court, certain observations made in the said case would be of utmost relevance which are extracted hereinbelow-

*"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."*

**59.** The Hon'ble Supreme Court has laid down a caveat that findings arrived at by a Scrutiny Committee are findings of fact and there is no scope of a roving enquiry by the High Court under Article 226 of the Constitution of India. There is no requirement of any deeper probe on the factual issue as the High Court is

not an appellate authority under the aforesaid provision of law. Further, the impugned findings do not appear to be perverse and there is admittedly no allegation of bias or *mala fide*. The principles of natural justice appear to have been clearly adhered to in the entire proceeding.

**60.** The fact that the petitioner has been an Member of Parliament for two terms based on the said certificate would not have a major bearing in the adjudication of the said case as it is for the first time that the challenge to the caste certificate has come for consideration before this Court and the same has to be adjudicated on its own merits.

**61.** There is another aspect which has intrigued this Court. The petitioner who is aged about 53 years and having certain educational background had obtained the caste certificate only in the year 2011 and he had contested the elections from the 5-Kokrajhar Parliamentary Constituency in the year 2014. There is not even an iota of evidence or any materials brought on record by the petitioner at any stage of the proceedings which are prior to the year 2011 pertaining to his claim to belong to the ST(P). The father of the petitioner who was admittedly in service with the Assam Regimental Centre, Shillong also does not possess any document towards the claim of the petitioner. Though the sister of the petitioner claims to be an ST(P), she had given a statement of belonging to the "Sarania" community which is admittedly not within the enlisted community in the Presidential Order of 1950. As already held by this Court that the surname would not be the determining factor to ascertain the social status / caste, the materials on record which were considered by the SLSC would show that there was no basis for grant of the caste certificate to the petitioner on 14.10.2011 that he belongs to the "Boro Kachari" community. This Court accordingly does not find any illegality or impropriety in the decision making process culminating

in the speaking order dated 12.01.2024.

**62.** The writ petition accordingly stands dismissed.

**63.** No order as to cost.

**JUDGE**

**Comparing Assistant**