



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 12TH DAY OF FEBRUARY, 2025
BEFORE
THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
REVIEW PETITION NO. 100100 OF 2024 (-)
IN
WRIT PETITION NO.109307 OF 2016 (GM-CC)**



BETWEEN:

SRI. SANGAPPA M. BAGEWADI,
S/O. MALLAPPA BAGEWADI,
AGED ABOUT 61 YEARS,
RETIRED SENIOR TECHNICIAN,
OFFICE OF THE SENIOR SECTION OFFICER,
(GARAGE AND WAGON),
SOUTH WESTERN RAILWAYS,
HOSPET, BALLARY DISTRICT.

...PETITIONER

(BY SRI. VIJAYKUMAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIDHANA SOUDHA, BENGALURU-560001.
2. THE DEPUTY COMMISSIONER,
VIJAYAPURA DISTRICT,
VIJAYAPURA.
3. THE SUPERINTENDENT OF POLICE,
OFFICE OF DIRECTORATE OF CIVIL RIGHTS,
ENFORCEMENT CELL, VIJAYAPURA,
VIJAYPURA DISTRICT.





4. THE TAHSILDAR,
DHARWAD TALUK,
DHARWAD.
5. THE DIVISIONAL PERSONNEL OFFICER,
SOUTH WESTERN RAILWAYS,
HUBBALLI, DHARWAD DISTRICT.

...RESPONDENTS

(BY SRI. C. JADEESH, ADVOCATE FOR R1-R4;
SMT. ANURADHA DESHPANDE, ADVOCATE FOR R5)

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 READ WITH SECTION 114 OF CPC, PRAYING TO RECALL AND REVIEW THE ORDER DATED 11.01.2024 PASSED IN W.P.NO. 109307/2016 IN SO FAR AS IT RELATES TO LIBERTY GRANTED TO THE RESPONDENTS INCLUDING THE DISTRICT CASTE VERIFICATION COMMITTEE TO INITIATE SUCH PROCEEDINGS IN ACCORDANCE WITH LAW.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.12.2025 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

CAV ORDER

1. The Petitioner is before this Court seeking for the following reliefs:

- i. *Recall and review the order dated 11.01.2024 passed in W.P.No.109307/2016 in so far as it relates to liberty granted to the Respondents including the District Caste Verification Committee to initiate such proceedings in accordance with law.*
- ii. *Pass such other order/s as this Hon'ble Court deems fit in the facts and circumstances of the case, in the interest of justice and equity.*



2. What has been sought for is a review of the order dated 11.01.2024 in W.P. No. 109307/2016 on the ground that the matter could not be referred to the District Caste Verification Committee **(for short 'DCVC')** and or no direction could have been issued to the DCVC to initiate proceedings.
3. The submission of Sri Vijaykumar, learned counsel for the petitioner is that the petitioner is working with the South Western Railways, which is a Central Government undertaking and as such, no enquiry could be initiated against the petitioner under the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation Of Appointment, etc.) Rules, 1992 (hereinafter referred to as **'Rules 1992'**).
4. His submission is that in terms of sub-section (3) of Section 2 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes



(Reservation Of Appointment, etc.) Act, 1990 (hereinafter referred to as '**Act 1990**'), the said Act of 1990 and consequently the Rules thereof would not be applicable to a Central Government undertaking.

5. In this regard, he relies upon sub-section (3) of Section 2 of the Act, which is reproduced hereunder for easy reference:

"(3) "establishments in public sector" means,- (i) a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959; (ii) an educational institution established or maintained or aided by the State Government; (iii) a Government company within the meaning of section 617 of the Companies Act, 1956; (iv) a local authority; (v) a statutory body or corporation established by or under a State or Central Act owned or controlled by the State Government; (vi) a university established or deemed to have been established by or under any law of the State Legislature;"

6. His submission is that the phrase 'establishments in public sector' does not refer to or include any Central-Government undertaking. The verification of the caste of an employee employed in the railways cannot be done under the Act of 1990.



7. In regard to the above Sri. Vijaykumar, learned counsel for the petitioner relies upon the decision of a Co-ordinate Bench of this Court dated 04.03.2011 in the case of **G. Keshavamurthy S/o V.Govinda Rao vs The MMTC Limited Corporate Office and Others¹**, more particularly para nos. 4, 6 and 7 thereof, which are reproduced hereunder for easy reference:

4. The learned counsel for the petitioner would firstly draw attention to the Preamble to the 1990 Act which reads as follows:

"An Act to provide for the reservation of appointment or posts in favour of the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes in the State Civil Services and establishments in the Public sector and in admission to Universities and to the Educational institutions established or maintained or aided by the State Government.

Whereas the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes of citizens are not adequately represented in the services or posts of the State Civil Services and establishments in public sector among the students admitted to the University and to Educational Institutions established or maintained or aided by the State Government.

And whereas it is expedient to provide in favour of them such reservation."

¹ W.P.No.51057/2003



He would also draw attention to the definition establishments in public sector which reads as follows :-

"(3) Establishments in public sector means:

(i) a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959;

(ii) A Government institution established or nyintained or aided by the State Government,

(iii) A local authority;

(iv) A statutory body or corporation established by of under a State or Central Act, owned or or controlled by the State Government;

(v) A university established established or deemed to have been by or Legislature:" under any law of the State

And he would submit that there is no dispute that the petitioner belongs to a Government of India undertaking and it would fall outside the scope of the provisions of the said Act. The impugned orders having been passed by the authorities, under the provisions of the said Act, are therefore, entirely without jurisdiction.

He would further draw attention to Annexure-K to the writ petition, which is an extract from a Circular specifying that insofar as a dispute pertaining to the Scheduled Caste or Scheduled Tribe to which a person may belong, the mater would have to be verified through the District Magistrate of the place where the concerned ordinarity resides and in the prescribed manner. It is only on such verification that the candidate's claim having been proved false, that his services could be terminated. In this regard, he would submit that it is this Circular which would apply to the petitioner's case. Therefore, the competent authority who could address the caste certificate produced by the petitioner was the District Magistrate of the place in which he ordinarily resides and not the authorities prescribed under the 1990 Act. Therefore, the



entire proceedings are bad in law, not only they are held without notice to the petitioner, but also as being without jurisdiction.

6. The learned counsel for the petitioner, on the other hand, would point out that the judgment cited is with reference to the Kerala Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issues of Community Certificates Act, 1996 and the tenor of the said Act is completely different from that of the 1990 Act and the said Act applies not only in respect of the State Government employees, but also the employees of Central Government Undertaking and therefore, the said judgment having been rendered to hold that the Act would apply across the Board to both the Central and State Government employees is in order, but the same cannot be pressed into service insofar as the present impugned orders are concerned as the 1990 Act applicable to the Karnataka Scheduled Castes and Scheduled Tribes does not include Central Government employees and it is Annexure-K which would be relevant insofar as the petitioner is concerned. He would further rely upon a judgment of this court in G.Sathya Murthy vs. Director, Bangalore Complex, Indian Telephone Industries and others 2002(3) KCCR 1994, wherein this court has held that the competent authority to cancel a caste certificate is the authority which had issued the caste certificate in the first instance. Unless the same is cancelled by the very authority which had issued it, the question of the Caste Certificate Committee entering upon the veracity of the said certificate would not arise and therefore, he would submit that the impugned order is hence bad in law for more than one reason.

7. Given the above facts and circumstances, the preamble to the 1990 Act and the definition of 'Establishments in Public Sector' would clearly exclude employees of Central Government undertaking and undisputedly, the petitioner belonging to a Central Government Undertaking would be outside the scope of the present Act. The verification in the office that there is any doubt as to the petitioner belonging to Scheduled Tribe is



concerned, it would be a matter which would require the certificate issued in favour of the petitioner being cancelled in the first instance insofar as the petitioner is concerned in terms of Annexure K. It is the District Magistrate, who could go into the veracity of the certificate on which the petitioner seeks to rely and thereafter it is possible that the very authority which had issued the certificate could also cancel the same.

In that view of the matter, the petition is allowed. The impugned orders are quashed. As stated by the learned counsel for the petitioner, the petitioner having attained the age of superannuation in the year 2005 and his retirement benefits having been withheld subject to the result of this writ petition, the petitioner would be entitled to his retirement benefits subject to any proceedings that may be initiated by the competent authorities. Liberty is reserved to the respondents to proceed in accordance with law in terms of the observations made hereinabove."

8. By relying on **G. Keshavamurthy's case**, he submits that a Co-ordinate Bench of this Court has categorically come to a conclusion that a Central Government undertaking, would not come in the purview of the Act of 1990. The verification would have to be carried out by the District Magistrate and not by the DCVC.
9. He relies upon the decision of another Co-ordinate Bench of this Court in the case of **Ms. M.N. Kalavathi**



vs The State of Karnataka and others², more particularly para nos.11 and 13 thereof, which are reproduced hereunder for easy reference:

"11. Though it is a proceeding before and by the Competent Authority, at whose instance the proceedings sprang is what is germane to be noticed. It is not by a candidate who lost the appointment on account of appointment of the petitioner. The complainant was not the one who was a participant in the selection process. The complainant was the one who had an axe to grind against the petitioner for her brother had instituted certain civil proceedings against the complainant. It is therefore, a complaint in the form of a letter is sent to the Tahsildar and proceedings instituted thereafter. Therefore, the very genesis suffers from want of locus to challenge the issuance of caste certificate to the petitioner. It is this that merits consideration and not the merit of the matter.

13. The issue, in the case at hand, is akin to what is decided by the Division Bench, as the complainant M.A.Chikkaraju was not the applicant along with the petitioner nor claims to have lost employment on account of the petitioner securing employment as a scheduled caste candidate and does not even belong to scheduled caste. Therefore, the very genesis of the complaint suffers from want of locus. If the foundation suffers from want of locus, the super structure would tumble down as if the complaint itself was not maintainable and any finding on a complaint that was not even maintainable is a nullity in law."

10. By relying on **M.N. Kalavathi's case**, he submits that the person, who had complained against the petitioner, had no *locus* in as much as, he was not a

² WP No.1898/2021



co-applicant and would not be affected by the petitioner being conferred any benefit and as such, he submits that the proceedings ought to have been dismissed.

11. He relies upon the decision of the Hon'ble Apex Court in the case of ***K. Nirmala and Ors Vs Canara Bank and Another***³, more particularly para nos. 34 and 35 thereof, which are reproduced hereunder for easy reference:

"34. Apparently thus, the above Office Memorandum was issued in ignorance of the Government of Karnataka's circular dated 29th March 2003, which further extended the protection granted by the earlier Government circular dated 11th March, 2002 to the communities including Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara as well. This Government circular seems to have completely escaped the notice of the Ministry of Social Justice and Empowerment, Government of India while issuing the Office Memorandum dated 8th July, 2013. Clearly thus, the Office Memorandum suffers from the vice of non- consideration of a vital document being the circular dated 29th March, 2003 issued by the Government of Karnataka. Hence, we have no hesitation in holding that the Office Memorandum dated 8th July, 2013, cannot supersede the communication dated 17th August, 2005 issued by the Ministry of Finance and the

³ Civil Appeal No. /2024
(arising out of SLP (Civil) No(s).13484-13488 of 2019)



same cannot be read to the prejudice of the appellants.

35. In wake of the discussion made above, we conclude that the appellants are entitled to protection of their services by virtue of the Government circular dated 29th March, 2003 issued by the Government of Karnataka as ratified by communication dated 17 th August, 2005 issued by the Ministry of Finance. The circular dated 29th March, 2003 issued by the Government of Karnataka specifically extended protection to various castes, including those which were excluded in the earlier Government circular dated 11th March, 2002. This subsequent circular covered the castes such as Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara, and Sarvegara, thus, ensuring that individuals of these castes, holding Scheduled Castes Certificates issued prior to de-scheduling, would be entitled to claim protection of their services albeit as unreserved candidates for all future purposes. Additionally, the communication issued by the Ministry of Finance dated 17th August, 2005 reinforced the protective umbrella to the concerned bank employees and also saved them from departmental and criminal action.

12. By relying on ***K. Nirmala's case***, he submits that even if the case were to be held against the petitioner, the petitioner's employment is protected, by the circular dated 29.03.2003 and an earlier Circular dated 11.03.2002 and therefore, no action could be taken. On the basis of the above, he submitted that the review petition is required to be allowed. The



order insofar as referring the matter to the DCVC is required to be reviewed and set- aside.

13. Sri C. Jagdish, learned counsel appearing for respondents No.1 to 4 would submit that it is only the DCVC, who has the power to verify any caste certificate. The caste certificate not having been issued by any Central Government Officer, but having been issued by the Tahasildar, it is only the State machinery, which can look into the same.

14. There being a specialized agency which had been created for the said purpose, the Rules providing for the same and the methodology of the working of the Committee being in terms of the decision of the Hon'ble Apex Court in the case of ***Kumari Madhuri Patila and Anr. vs. Addl. Commissioner, Tribal Development And Ors⁴***, the petitioner cannot claim that it is only the District Magistrate, who is required to conduct the verification. He fervently submits that

⁴ AIR 1995 SC 94



it is only the DCVC who could do so. In this regard, he relies upon para nos. 9 and 12 of said judgment, which are reproduced hereunder for easy reference.

"9. The entries in the school register preceding the Constitution do furnish great probative value to the declaration of the status of a caste. Hierarchical caste stratification of Hindu social order has its reflection in all entries in the public records. What would, therefore, depict the caste status of the people inclusive of the school or college records, as the then census rules insisted upon. Undoubtedly, Hindu social order is based on hierarchy and caste was one of the predominant factors during pre-Constitution period. Unfortunately instead of dissipating its incursion it is being needlessly accentuated, perpetrated and stratification is given legitimacy for selfish ends instead of being discouraged and put an end to by all measures, including administrative and legislative. Be it as it may, people are identified by their castes for one or the other is a reality. Therefore, it is no wonder that caste is reflected in relevant entries in the public records or school or college admission register at the relevant time and the certificates are issued on its basis. The father of the appellants admittedly described himself in 1943 and thereafter as a Hindu Koli. In other words his status was declared a Koli by caste and Hindu by religion. Kolis are admittedly OBCs. His feigned ignorance of the ancestry is too hard to believe. The averment in the affidavit that the entries were mistakenly made as Hindu Koli is an obvious afterthought. The anthropological moorings and ethnological kinshipaffirmity (sic) gets genetically ingrained in the blood and no one would shake off from past, in particular, when one is conscious of the need of preserving its relevance to seek the status of Scheduled Tribe or Scheduled Caste recognised by the Constitution for their upliftment in the society. The ingrained tribal traits peculiar to each tribe and anthropological features all the more become relevant when the social status is in acute controversy and needs a decision.



The correct projectives furnished in pro forma and the material would lend credence and give an assurance to properly consider the claims of the social status and the officer or authority concerned would get an opportunity to test the claim for social status of particular caste or tribe or tribal community or group or part of such caste, tribe or tribal community. It or he would reach a satisfactory conclusion on the claimed social status. The father of the appellant has failed to satisfy the crucial affinity test which is relevant and germane one. On the other hand the entries in his school and college registers as Hindu Koli positively belies the claim of his social status as Scheduled Tribe.

12. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised 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 over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all



particulars as envisaged in the 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-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 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."

15. He once again submits that the aspect of verification of caste is a very serious issue, which would require anthropological moorings and ethnological kinship to be verified. These aspects cannot be appropriately and adequately done by a District Magistrate/Deputy Commissioner, that is the reason why a DCVC has



been constituted, which is a committee that has the necessary specialists to peruse through the same and pass necessary orders in terms of the Act and Rules, thereby protecting the interests of all concerned more particularly the reserved classes.

16. He relies upon a judgment of the Co-ordinate Bench of this Court in the case of ***Uattara Kannada Zill Moger Sangha ®, Bhatkal and Another vs. The State of Karnataka and Others***⁵ , more particularly para nos.4 and 5 thereof, which are reproduced hereunder for easy reference:

"4. As regards the second paragraph of the circular dated 4th November 2019, we must record that all that it says is that those who are claiming benefit of Scheduled Caste listed in Entry No.78 will have to subject themselves to an enquiry on caste status as provided in the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment etc) Act, 1990 and the rules made thereunder as well as the decision of the Apex Court in the case of Kumari Madhuri Patil and Another Vs. Additional Commissioner, Tribal Development and Others, AIR 1995 SC 94.

5. It is well settled law that a certificate of caste issued by the Competent Authority is always subject to scrutiny by the verification committee. Therefore,

⁵ W.P.Nos.54176-54177/2018



we find nothing wrong about the second part of the circular dated 4th November 2019."

17. He therefore submits that vide the judgment in ***Uattara Kannada Zill Moger Sangha's case*** the Division Bench of this Court has impliedly set-aside the earlier judgment of the Co-ordinate Bench in ***G. Keshav Murthy's*** case (*supra*), and therefore, it is the DCVC alone who can verify the caste certificate issued.

18. He submitted that the decision in ***Kumari Madhuri Patil's*** case (*supra*) being doubted, was referred to a Full Bench, which is considered in the case of ***Dayaram vs Sudhir Batham and Others***⁶, where the points formulated were as under:

"9. In view of the reference order, the following questions arise for consideration:

(i) Whether directions 1 to 15 in Madhuri Patil are impermissible, being legislative in nature?

(ii) Whether directions 11 and 12 in Madhuri Patil, which exclude the jurisdiction of the civil court to entertain suits challenging the decisions of the Caste Scrutiny Committees, violate section 9 of the Code of Civil Procedure?

⁶ (2012) 1 SCC 333



(iii) Whether direction 13 in Madhuri Patil barring intra-court appeals against decisions of Single Judges in writ petitions, when such appeals are specifically provided for in State enactments/Letters Patents, is valid and proper?"

R e: Question (i) directions (1) to (15) in Madhuri Patil in general.

19. And the Full Bench of the Hon'ble Apex Court at para no.22 of the above judgment has observed as under;

"Therefore, we are of the view that directions 1 to 15 issued in exercise of power under Articles 142 and 32 of the Constitution, are valid and laudable, as they were made to fill the vacuum in the absence of any legislation, to ensure that only genuine scheduled caste and scheduled tribe candidates secured the benefits of reservation and the bogus candidates were kept out. By issuing such directions, this court was not taking over the functions of the legislature but merely filling up the vacuum till legislature chose to make an appropriate law."

20. He further relies upon para no.36 of **Dayaram's** case (supra), which is reproduced hereunder for easy reference:

"Having regard to the scheme for verification formulated by this Court in Madhuri Patil, the scrutiny committees carry out verification of caste certificates issued without prior enquiry, as for example the caste certificates issued by Tehsildars or other officers of the departments of Revenue/Social Welfare/Tribal Welfare, without any enquiry or on the basis of self- affidavits about caste. If there were to be a legislation governing or regulating grant of caste certificates, and if caste certificates are issued after due and proper inquiry, such caste certificates will not call for verification by



the scrutiny committees. Madhuri Patil provides for verification only to avoid false and bogus claims. The said scheme and the directions therein have been satisfactorily functioning for the last one and a half decades. If there are any shortcomings, the Government can always come up with an appropriate legislation to substitute the said scheme. We see no reason why the procedure laid down in Madhuri Patil should not continue in the absence of any legislation governing the matter."

21. By relying on the above, he submits that the Hon'ble Apex Court has categorically held that it is only the scrutiny committees, who can carry on the verification of a caste certificate. Thus, he submits that the decision in ***Kumari Madhuri Patil's*** case (*supra*), having been reconsidered and affirmed in ***Dayaram's*** case (*supra*), the same is the law of the land.
22. He relies upon a judgment of a Co-ordinate Bench of this Court in the case of ***Smt. Geethanjali vs. The Canara Bank, rep., by its General Manager, Bangalore and Others***⁷, more particularly para nos.4, 8 and 9 thereof, which are reproduced hereunder for easy reference:

⁷ ILR 2012 KAR 4384



"4. We shall now move on to the aspect of the other question namely - whether it is legally correct and proper to accept the correctness or genuineness of a Caste Certificate as per conclusions arrived at by the DCVC, or where the caste certificate has been issued by the Tahsildar in accordance with the then prevailing law. Whether it is only Tahsildar to whom it can be reverted to, and whose opinion would then prevail? In this regard, we also have the advantage of a decision of the Full Bench rendered in WP No.8520-38/1989 pronounced on 19.9.1997 titled *Savitha Chandrashekar Shirali vs. State*, which is unquestionably relevant for the determination of the present controversy. A perusal of the said Judgment makes it manifestly clear that although the Full Bench had given its imprimatur to the DCVC conclusion, it refrained from going conundrum of whether the decision of DCVC would prevail over that of the Tahsildar. The learned Single Judge in our view, should have extracted the ratio of the said decision rendered by the Full Bench and applied it. This ratio is that the decision of the DCVC prevails over the decision of the Tahsildar, regardless of whether the latter occurred before the statute creating the DCVC was promulgated.

8. This comprehensively and completely answers any doubts that may remain in the mind of the learned Single Judge. Having regard to the ratio of Pillai's case what the learned Single Judge would have to satisfy himself, on is whether the investigation into the genuineness of the caste certificate produced by the petitioner had come to its culmination before the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment etc.,) Rules, 1992 came into force. The DCVC is a creature of these Rules. If the answer is in the negative Pillai will clarify that there is no scope to hold to conviction that retrospectivity of the Rules would result.

9. We hold that after the promulgation of Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment etc.,) Rules, 1992, it will only be the DCVC which is the Competent Authority to look into the



genuineness or otherwise of any caste certificate, even if it be had been issued by the Tahsildar in the previous legal regime as it was then prevailing.”

23. He submits that after the promulgation of the Rules of 1992, it will only be the DCVC, which is the competent authority to look into the genuineness or otherwise of any caste certificate, even if it had been issued by the Tahasildar in the previous legal regime, as it was then prevailing.

24. Lastly, he submits that there are no grounds for review, which have been made out in the above review petition in terms of Order XLVII of the Code of Civil Procedure (hereinafter referred to as '**CPC**') and in this regard, he relies upon the decision of the Division Bench of this Court in the case of ***The Director General, Council of Scientific and Industrial Research Rafi Marg, New Delhi and others vs Sri Vinayaraya P S/o D.H Raya***⁸, more

⁸ R.P. No. 221/2021



particularly para nos.4, 5 and 6 thereof, which are reproduced hereunder for easy reference:

"4. From a perusal of the order passed by the coordinate bench of this Court in W.P.No.33168/2019 dated 06.04.2021, it is found that the coordinate bench of this Court having regard to the facts of the case and also the rules governing the field, has given a categorical finding that the rules did not provide for fixing the percentage of marks as a criteria for eligibility and in the absence of such power, the selection committee was not justified in fixing the minimum marks of 85% as eligibility criteria. In the order sought to be reviewed, it is observed that inspite of a pointed question to the learned Counsel for the petitioners, he had failed to point out to this court the basis on which percentage of marks had been fixed, and on the other hand, he had admitted that the Rules do not provide for fixing the percentage of marks as a criteria for eligibility.

5. The Hon'ble Supreme Court in the case of SANJAY KUMAR AGARWAL VS STATE TAX OFFICER & ANOTHER - (2024)2 SCC 362, in paragraph 11, has observed as under:

"11. In Parsion Devi v. Sumitri Devi - (1997)8 SCC 715, this Court made very pivotal observations: (SCC p.719, para 9)

"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise"."



6. In the case of B.DHANALAKSHMI VS M.SHAJAHAN - AIR 2004 MAD 512, it is observed that, "if the parties aggrieved by the judgment on the ground that it is erroneous, remedy is only questioning the said order in appeal. The power of review under Order XLVII Rule 1 CPC may be opened inter alia, only if there is a mistake or an error apparent on the face of the record, the said power cannot be exercised as is permissible for an erroneous decision to be 'reheard and corrected'."

25. By relying on the above, he submits that the petitioner is required to point out an error from the face of the records in the judgment sought to be reviewed. No such error has been pointed out. The only condition of the petitioner being that in terms of the circular issued by the Central Government, it is the District Magistrate, who can verify the caste certificate.

26. The petitioner being a Central Government employee, the DCVC cannot verify the caste certificate. This contention has been negated by the Hon'ble Apex Court in **Kumari Madhuri Patila's** case (*supra*), affirmed in **Dayaram's** case(*supra*) and the Division Bench of this Court in **Geetanjali's** case (*supra*) as also in **Uttara Kannada Zilla Moger Sangha ®'s**



case, having clearly and categorically indicated that it is only the DCVC who can verify a caste certificate. No grounds have been made out and as such, the petition is required to be dismissed.

27. Heard Sri Vijaykumar, learned counsel appearing for the petitioner, Sri C. Jagadish, learned counsel appearing for respondents No.1 to 4 and Smt. Anuradha Deshpande, learned counsel appearing for respondent No.5. Perused petition papers.

28. The points that would arise for the consideration of this Court are;

- i) **Whether, a caste certificate issued by the Tahasildar prior to the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation Of Appointment, etc.) Rules, 1992 coming into force can be verified by the DCVC or will have to be verified only by the District Magistrate?**
- ii) **Whether after the Rules 1992 having come into force, it is only the DCVC who can verify a caste certificate?**
- iii) **Whether the *locus* of the complainant can be looked into in a review petition?**



- iv) **Whether the petitioner has made out any ground for review of the order dated 11.01.2024 passed in W.P.No.109307/2016?**
- v) **What order?**

29. I Answer the above points as under:

30. **ANSWER TO POINT NO.1: Whether, a caste certificate issued by the Tahasildar prior to the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation Of Appointment, etc.) Rules, 1992 coming into force can be verified by the DCVC or will have to be verified only by the District Magistrate?**

30.1. The submission of Sri. Vijaykumar, learned counsel appearing for the petitioner is that the caste certificate having been issued by the Tahasildar prior to the Rules of 1992 coming into force, it is the District Magistrates/ Deputy Commissioner, who can verify the caste certificate.

30.2. That apart, his submission is that the petitioner being a Central Government employee even after the Rules 1992 having come into force, it is only the Deputy Commissioner who can verify the caste certificate. Since the phraseology used in subsection



(3) of Section 2 of the Act 1990, does not include a Central Government undertaking.

30.3. In this regard, he has relied upon the decision in **G. Keshavamurthy's** case rendered on 04.03.2011. Having gone through the said judgment I am of the considered opinion that no particular argument had been taken up in that matter as regards it being only the DCVC who could carry out verification.

30.4. In fact, the judgment of the Hon'ble Apex Court in **Madhuri Patila's** case, had not been brought to the notice of the Co-ordinate Bench. Subsequent to the order in **G. Keshavamurthy's** case, **Dayaram's** decision was rendered by the Hon'ble Apex court on 11.10.2011.

30.5. The Hon'ble Apex Court in **Madhuri Patila's** case has considered in detail as regards the various aspects which are relevant for verification of a caste



certificate. The Hon'ble Apex Court having taken into consideration the constitutional mandate under Article 14, 15(1), 15(4), 16(1), 51A(h) of the Constitution of India, has come to a conclusion that the methodology of verification of caste certificate is very important and as such, has gone on to issue various directions to streamline the procedure in terms of para-12 of the said judgment which has been reproduced herein above.

30.6. There being 15 directions which had been issued by the Hon'ble Apex Court in ***Kumari Madhuri Patil's*** case. These aspects were considered in ***Dayaram's*** case and the Hon'ble Apex Court has categorically held in para-22 thereof that the directions No.1 to 15 are valid and laudable as they were made to fill the vacuum in the absence of any legislation to ensure that only genuine Schedule Cast and Schedule Tribe candidates secure the benefits of reservation and the bogus candidates were kept out.



30.7. The Hon'ble Apex Court in **Dayaram's** case also held that the State could come up with suitable legislations in order to further strengthen the machinery and make it more Robust. These aspects have been considered by both **Kumari Madhuri Patil's** case and **Dayaram's** case. It is clear that it is a specialized agency, who is required to verify a caste certificate when there is any issue raised and it cannot be the Deputy Commissioner/ District Magistrate who can verify the same since he does not have the wherewithal to do so.

30.8. The aspect of issuance and verification of a caste certificate as held by the Hon'ble Apex Court in **Kumari Madhuri Patil's** case is of tremendous significance inasmuch as an eligible person cannot be denied the benefits of the caste that he or she belongs to, and an ineligible person cannot on the basis of bogus documents claim any benefit that he or she is not entitled to avail. Both these situations



are an anathema to the Constitution under which the rights of the citizen of the country are required to be protected. While benefits are being given to persons belonging to the category of Scheduled Caste and Scheduled Tribe and certain other castes which qualify for such benefits, it is also required for the State to ensure that such benefits reach the eligible person and also to ensure that such benefits are not cornered or taken away by persons who are not eligible.

30.9. It is in that background that various guidelines and directions had been issued by the Hon'ble Apex Court, numbering 15 which were required to be implemented.

30.10. On enquiry with Sri C. Jagdish., learned counsel as to whether all of those directions have been implemented by the State, he submits that most of them have been implemented. This answer does not satisfy the requirement inasmuch as it is required for



the State to implement all the directions of the Hon'ble Apex Court, which is law of the land in terms of Article 142 of the Constitution of India.

30.11. The Hon'ble Apex Court in **Dayaram's** case has categorically held that, the directions issued in **Kumari Madhuri Patil's** case are laudable, it is for the State to implement the same. As such, the Principal Secretary, Department of Personal and Administrative Reforms, is directed to file an affidavit indicating the implementation of the directions issued in **Kumari Madhuri Patan's** case, the manner of implementation and which directions are pending to be implemented.

30.12. Though, it is clear from the judgments of the Hon'ble Apex Court that it is only the DCVC who can verify the caste certificate, two Division Benches of this Court have also adverted to and held the same in **Smt. Geethanjali's** case and **Uttara Kaqnada Zilla Moger Sangha** ® case.



30.13. Thus, I answer point No.1 by holding that even if a caste certificate has been issued by a Tahasildar prior to the coming into the force of the Rules of 1992, it is the DCVC, who can verify the caste certificate in terms of the Rules of 1992 by following the due procedure.

31. ANSWER TO POINT NO.2: Whether after the Rules 1992 having come into force, it is only the DCVC who can verify a caste certificate?

31.1.The contention of Shri Vijay Kumar., learned counsel is that since the petitioner is a Central Government employee, it is only the District Magistrate who can verify the caste certificate and in this regard, he relies upon the circulars issued. One of the circulars so issued reads as under:

"No.36022/1/2007-Estt.(Res)

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

New Delhi, dated: the 20 March, 2007

To,

*The Chief Secretaries of all
States/Union Territories*



Subject: Verification of claims of candidates to belong to Scheduled Castes, Scheduled Tribes and Other Backward Classes.

Sir,

It has been brought to the notice of this Department that some candidates manage to secure employment under the Government against the vacancies reserved for SCs/STs/OBCs on the basis of false/forged caste/community certificates. It is a serious matter which can only be tackled with the cooperation of the State Governments.

2. Instructions issued by this Department require the appointing authorities to verify the caste status of SC/ST/OBC candidates at the time of initial appointment. Accordingly, the concerned appointing authorities, at the time of initial appointment of SC/ST/OBC candidates against vacancies reserved for them, make a request to the concerned district authorities to certify the veracity of caste/community certificate produced by the candidate. Many a time, the district authorities take unduly long time to respond. Where verification is not completed in time, the candidates are given appointment on provisional basis pending verification of their caste status. Some candidates continue to hold the post on the basis of false/forged certificates in the absence of proper response from district authorities. Chances of collusion of the candidate with some unscrupulous employee(s) at the district level cannot also be ruled out.

3. I am directed to request you to streamline the system so that the unscrupulous non-SC/ST/OBC persons are prevented from securing jobs meant for SCs/ST/OBCs by producing false certificates. It would be appreciated if you could issue instructions to the District Magistrates/District Collectors/Deputy Commissioners of the districts to the effect that they should ensure at their own level that veracity of the caste/community certificate referred to the district authorities, as stated above, is verified and reported to the appointing authority within one month of receipt of request from such authority. In order to rule out collusion between candidates holding false/forged certificate and employees at the district level or sub-district level, disciplinary proceedings may be initiated against officers who default in timely verification of caste status in such cases or issue false certificates.

Yours faithfully



(R. Ramanujam)
Joint Secretary

31.2. A perusal of the said circular would indicate that even the Government of India is aware of the collusion of the candidate with unscrupulous employees and the possibility of a false certificate having been produced and it is in that background that the circular had been issued stating that it is the District Magistrate, District Collector and the Deputy Commissioner of the District would have to verify the caste certificate. Similar such circulars were issued on 08.10.2015 and 14.03.2016.

31.3. A perusal of the circulars indicate that those circulars had been issued since there was no particular system in many States and union territories to verify a caste certificate. A perusal of the circulars would indicate that it is only with the Co-operation of the State Government that the serious matter of bogus, false, forged community certificates could be tackled. Thus, the



recommendation made in the circulars by the Government of India is not a direction, which would apply to a State where there is a system which has been established for verification of a caste certificate. Those circulars would only apply where there is no particular system which has been established which is not the case in the State of Karnataka due to the Rules of 1992 being applicable.

31.4. In that view of the matter, I am of the considered opinion that the DCVC established under the Rules of 1992 being a comprehensive system of verification of caste certificates, the question of the circulars overriding those Rules and the verification insofar as Central Government employees are concerned to be done only by the Deputy Commissioner, cannot be accepted.

31.5. What is also not to be lost sight of is that these caste certificates are not issued by any Central Government officer, but by a State Government



officer like the Tahasildar and it is for the State Government to establish a proper system for issuance of caste certificates and verification of caste certificates thereof, which has been sought to be done by the State of Karnataka in terms of the Rules 1992. Of course, in view of the numerous litigations, which come up before this Court even those Rules need to be made robust. Especially by implementing the guidelines issued by the Hon'ble Apex Court in Kumari Madhuri Patil's case.

31.6. In that view of the matter, I answer point No.2 by holding that, even if a person is a Central Government employee, the caste certificate having been issued by the Tahasildar-State Government, it is the DCVC, which will be the rightful authority to verify the caste certificate of such a Central Government Employee or proposed Central Government Employee.



32. ANSWER TO POINT NO.3:- Whether the *locus* of the complainant can be looked into in a review petition ?

32.1.Sri Vijaykumar., learned counsel appearing for the petitioner has sought to contend that the complaint which has been filed against the petitioner has not been filed by a person having locus for the same and the said person is not even an applicant. The present petition is a review petition. The complainant against whom these allegations have been made was neither a party in the writ petition nor he is a party in the present review petition.

32.2.Thus, without the person against whom allegations have been levelled being made a party to the proceedings, I am of the considered opinion that these allegations cannot be considered. The verification of the caste certificate being done in order to ascertain if the caste certificate is valid and genuine, the petitioner in my considered opinion



ought not to have any fear, if his caste certificate is genuine irrespective of who the complainant is.

32.3. In that view of the matter, considering that this is a review petition, this aspect of whether the alleged complainant has *locus*, when the alleged complainant has not been made as a party to either the writ petition or the review petition, cannot be looked into.

33. ANSWER TO POINT NO.4: Whether the petitioner has made out any ground for review of the order dated 11.01.2024 passed in W.P.No.109307/2016?"

33.1.As rightly contended by Sri C. Jagdish, learned counsel for the petitioner that, the petitioner has not made out any ground for review. The petitioner has not been able to establish any aspect in the order passed by this Court dated 11.01.2024 in WP No.109307/2016 requiring review.

33.2.In fact, the contentions, which have been raised by the petitioner in detail in the review petition, were



not even raised in the writ petition when the writ petition was argued, and the argument then advanced was that it is only the Caste Verification Committee, which could refer the matter to the Directorate of Civil Rights Enforcement. Thus, even when the writ petition had been taken up for hearing, there was no contention taken up alleging that the DCVC has no jurisdiction in respect of the verification of a caste certificate of a Central Government employee or otherwise.

33.3. Subsection (3) of Section 2 of the Act, having been reproduced hereinabove, the same would also have to be read along with Section 617 of Companies Act, 1956. Section 617 reads as under:

"617. DEFINITION OF "GOVERNMENT COMPANY"

For the purposes of this Act, Government company means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government company as thus defined."



31.4 Section 617 of the Companies Act, 1956 does not make any distinction between a a company owned by the State Government or Central Government. Clause-III of subsection (3) of Section 2 of the Act indicates that an establishment in public sector would include a Government company within the meaning of Section 617 of the Companies Act, 1956 and clause-V would indicate that establishment in public sector would mean and include a statutory body or corporation established by or under a State or Central Act owned or controlled by the State Government.

31.5 Thus, the omnibus submission made by Sri Vijaykumar, learned counsel that the Act of 1990 and the Rules of 1992 will not apply to any Central Government establishment is ill-founded. In terms of clause III of subsection (3) of Section 2 of the Act, which would indicate that Government company owned by both the State and Central Government is covered and in terms of clause V of subsection (3) of



Section 2 of the Act, a statutory body or corporation established by or under a Central Act owned or controlled by the State Government would indicate that the said Act and Rules would apply even to the railways.

31.6 The railways having been established under a statute, namely the 'Indian Railways Act'. The aspect of whether being owned or controlled by the State Government would be redundant insofar as a statutory body is concerned.

31.7 Thus, I am of the considered opinion that the Act of 1990 and Rules of 1992, would equally apply to the railways as indicated above.

33.4. In view of my answers to the above points, I am of the considered opinion that the order dated 11.01.2020 passed in WP No.109307 of 2016 does not suffer from any legal infirmity requiring review of said order in terms of Order XLVII of the Code of Civil Procedure, 1908.



34. **ANSWER TO POINT NO.5: What order?**

34.1. In view of my findings above, the review petition stands ***dismissed***.

34.2. Though the above petition stands dismissed, re-list on **05.03.2025** for the purpose of filing of an affidavit by the Principal Secretary, Department of Personal and Administrative Reforms indicating the compliance and implementation of the directions of the Hon'ble Apex Court in ***Kumari Madhuri Patil's*** case (*supra*).

Sd/-
(SURAJ GOVINDARAJ)
JUDGE