

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1641 of 2016 (O&M)

Date of Decision: 09.01.2020

Mohit Kumar

....Appellant

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA**

Present: Mr.Sanjeev Sharma, Sr.Advocate with
Mr.Animesh Sharma, Ms.Aarushi Jain and
Mr.Sanju, Advocates for the appellant.

Mr.Samarth Sagar, Addl.AG Haryana.

Mr.Kanwaljit Singh, Sr.Advocate with
Mr.Gautam Sehgal, Advocate.

Mr.Vishwajeet, Advocate for respondent No.7.

RAKESH KUMAR JAIN, J.(Oral)

The appellant has challenged the order dated 02.08.2016 passed by the learned Single Judge by which his writ petition was dismissed.

The appellant has challenged the validity of the order dated 25.07.2016 by which Scheduled Caste certificate issued to him on 29.08.2006 was cancelled. The appellant contested and elected to the post of Sarpanch, reserved for Scheduled Caste, on the basis of Scheduled Caste Certificate dated 29.08.2006. After his election, some complaints were made to the National Commission for Scheduled Caste on the ground that the appellant in fact belongs to the General category and has fraudulently obtained the Scheduled Caste certificate. The National Commission for

Scheduled Caste ordered for an investigation in the complaint to the Deputy Commissioner, Yamuna Nagar, who constituted a three member Committee. The Committee associated the appellant as well as the complainant and submitted its report dated 24.06.2016 to the Deputy Commissioner, Yamuna Nagar in which it was held that the appellant does not belong to the Scheduled Caste but belongs to Arora Khatri Caste which falls in General category. The Deputy Commissioner issued a show cause notice to the appellant to appear before the District Level Inspection Committee on 01.07.2016. The appellant appeared through his mother and brother. The District Level Inspection Committee perused the order and directed Naib Tehsildar to cancel the caste certificate of the appellant on having been satisfied that he does not belong to Scheduled Caste but belongs to Arora Khatri caste which falls in General Category Caste in the State of Haryana. Aggrieved against the order dated 25.07.2016 passed by the Naib Tehsildar, cancelling the Scheduled Caste Certificate on 29.08.2006, the appellant preferred the writ petition bearing CWP No.15458 of 2016 which was dismissed by the learned Single Judge, upholding the orders impugned therein, inter alia, on the ground that not only that the appellant was associated in the course of enquiry but also the Enquiry Committee had considered all the relevant record and every aspect of the matter. It was also observed that the entire family members of the appellant had taken admission in the Government School in the General Category Caste as Arora Khatri and not as belonging to Scheduled Caste.

Learned counsel for the appellant has submitted that the enquiry report dated 24.06.2006 is erroneous as it is not in conformity with the law laid down by the Supreme Court in the case of *Kumari Madurai*

Patil and another Versus Addl. Commissioner, Tribal Development and others (1994)6 SCC 241 as the Enquiry Committee was not duly constituted. It is also argued that when the SC certificate was obtained by the appellant, it was nowhere in sight of that he would contest the election for the post of Sarpanch on the basis of the said Certificate.

On the other hand, learned counsel for the respondent has submitted that there is no denial to the fact on the part of the appellant that his entire family members had taken admission, including the appellant, in the Govt. Model Senior Secondary School, Mustafabad in General category and not in the BC or SC Category. It is further submitted that the enquiry was conducted by the Deputy Commissioner on the directions issued by the National Commission for Scheduled Caste and a three member Committee was appointed to look into the relevant documents tendered by both the parties, who ultimately concluded that the certificate of Scheduled Caste obtained by the appellant was only on the basis that he was working as weaver (Julaha) and not on the basis of the caste to which he belongs to i.e. Arora Khatri Caste (General Category).

We have heard learned counsel for the parties and perused the record with their able assistance.

The appellant has failed to point out any malafide on the part of the members of the Enquiry Committee which was constituted by the Deputy Commissioner, Yamuna Nagar on the direction of the National Commission for Scheduled Caste to find out the truth in the complaints made by the villagers when they came to know that the appellant had contested the election for the post of Sarpanch on the basis of a certificate of Scheduled Caste though he actually belongs to Arora Khatri Caste

(General Category). The Committee in the process of enquiry associated the appellant but he failed to discharge the burden put upon him as to how the entire family of the appellant including himself got admission in the Govt. Model Senior Secondary School in the General Category as Arora Khatri and not as a Scheduled Caste. The argument of the learned counsel for the appellant that the Committee was not constituted by the Deputy Commissioner in terms of the decision of the Apex Court in the case of *Kumari Madhuri Patil's case (supra)* is thus of no consequence. Once the very fact has been established that the appellant and his entire family had taken admission in the Govt. School in the General Category as Arora Khatri and not Julaha (SC), the appellant cannot be allowed to blow hot and cold in the same breath and thus in view of the aforesaid facts and circumstances, we do not find any merit in the present appeal and the same is hereby dismissed though without any order as to costs.

सत्यमेव जयते

(RAKESH KUMAR JAIN)
JUDGE

09.01.2020
Meenu

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/Nos