



2025:DHC:8123-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12th SEPTEMBER, 2025

IN THE MATTER OF:

+ **W.P.(C) 5935/2010**

SURAJ SINGH

.....Petitioner

Through: Mr. Vishwendra Verma, Advocate

versus

UNION OF INDIA & ORS.

.....Respondent

Through: Ms. Shiva Lakshmi, CGSC with
Mr.Madhav Bajaj, Ms. Katyayani
Joshi, Mr. Prabhakar Mishra, Advs.
Mr R L Meena, Dy. Commandant and
Mr. S K Bharti

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present writ petition has been filed against an order dated 17.07.2008 passed by the Respondent No. 4 herein, by way of which the Petitioner was removed from service.

2. The factual background involved in the present writ petition is that the Petitioner was recruited to the post of a Sub-Inspector in the Central Industrial Security Force [“CISF”], Indirapuram, Ghaziabad on 07.11.2003 against a post specifically reserved for Scheduled Tribe incumbents, on the strength of a Caste Certificate dated 21.08.1991 bearing Serial No. 14/90-9/SC/S1, issued by the Tehsildar, Bhandar, District Gwalior, Madhya



Pradesh stating that he belongs to the Scheduled Tribe ‘Manjhi’. On verification of the said certificate, it was discovered that the Petitioner did not belong to the Scheduled Tribe ‘Manjhi’, and instead, belonged to the ‘Dhimar’ community, which is not included in the list of Scheduled Tribe.

3. Material on record indicates that this Court has been apprised of an Order dated 14.09.2005 passed by a Coordinate Bench of this Court in W.P. (C) 5976/2003 titled as Chandeshwar Prasad v. Union of India and Others, which, being relevant for the purpose of adjudication of the present Writ Petition, is being extracted below in its entirety:

“This petition seeks investigation by the C.B.I. into the service records of employees absorbed and/or promoted as S.T. Candidates on the basis of bogus, forged and fabricated S.T. Certificates.

We are informed by learned counsel for the CBI that the Bureau has already undertaken investigation and also produced challans in 4 cases and 17 more cases were being processed to be sent to the Court, while investigation in other cases is continuing. It is also pointed out by him that investigation has taken time because several State Governments were involved in the verification of the genuineness of the certificates. It is only after the CBI gets reports from States it can take cognizance of any offence having been committed.

Learned counsel for Union of India informs us that the Government had sanctioned two additional courts which would be set up very shortly and that one court will be specifically entrusted with these types of challans. That satisfies the grievance of the petitioner.

Nothing further survives in this petition for adjudication.



Respondent No.4, CBI is directed to continue investigation into these cases and if the petitioner has any grievance, as regards the result of the investigation, it is open to him to approach the Court again. The petition stands disposed of.”

4. Material on record indicates that a verification exercise was resultantly carried out by the Respondents, for which a letter dated 25.03.2006 was sent by the Respondents to the District Collector Officer, Datia.
5. Subsequently, a Report dated 03.05.2006 was obtained from the Office of the District Collector, Datia, Madhya Pradesh, which reflected that the Caste Certificate dated 21.08.1991 bearing Serial No. 14/90-9/SC/S1 produced by the Appellant at the time of recruitment, does not find itself in the registered records. The said Report also indicated that on account of the Petitioner's father belonging to the 'Dhimar' Caste which is categorized under Other Backward Classes, the Petitioner's caste would necessarily have to be 'Dhimar' and not 'Manjhi', which is a Scheduled Tribe.
6. The Respondents proceeded to lodge an FIR No. 63 dated 02.02.2007 against the Petitioner at P.S. Indirapuram, Ghaziabad, however, the case was later transferred to P.S. Bhandar, Datiya, Madhya Pradesh, being the residential address of the Petitioner.
7. While the Respondents were seized with the issue of authenticity of the Caste Certificate of the Petitioner, it transpires that on 21.02.2007, the Petitioner was ordered to take a short commando course 07/668 in the 55th Batch. However, the Petitioner without any intimation to or taking



permission from the concerned officer, went to his home without any sanctioned leave.

8. In view of the above two transgressions, the following Charges were levelled against the Petitioner as per Rule 36 of the CISF Rules, 2001 on 26.04.2007, which were received by the Petitioner on 18.05.2007:

“

CHARGE-I

No.031840031, SI/Exe Suraj Singh of CISF 5th Reserve Battalion had produced Scheduled Tribe certificate at the time of recruitment in which his caste is shown “Manjhi”. On his Scheduled Tribe certificate being verified from Deputy Collector, Datia, it is found that he belongs to the caste Dhhimer which does not come under Scheduled Tribe. Force member deliberately concealed the said fact from the department for getting recruited in CISF produced forged Scheduled Tribe certificate and took undue advantage of it which shows his bad intention and cheating. Hence the charge.

CHARGE-II

No. 031840031, SI/Exe Suraj Singh of CISF 5th Reserve Battalion was ordered to report back in 5th Reserve Battalion Ghaziabad after relieved from RTC Barwaha on 21.02.2007, vide CISF RTC Barwaha movement Order No. E 37028.Adm-2/Misc/55th Batch short commando course/07/668 dated 21.02.2007, but he went to his house without prior intimation/leave or permission of competent authority and did not report in this Battalion till today, which shows gross indiscipline, disobey of orders and negligence towards duty. Hence the charge.”

9. In exercise of powers conferred under sub-rule 5(c) of Rule 36 of CISF Rules, 2001, an order was passed by the Office of Sr. Commandant, CISF, appointing Sh. J. R. Meena Insp/Exe CISF 5th Reserve Batallion,



Ghaziabad as the Presenting Officer for the departmental enquiry initiated against the Petitioner.

10. Case of the Petitioner before the Enquiry Officer was as follows:

- i) The 5th Company was dispatched on 30.11.2006 to take part in short course commando training and, thereafter, on 21.02.2007, they were ordered back to Ghaziabad.
- ii) On 21.02.2007, when the force was returning from the training, the Petitioner felt sick and got down at Indore, Madhya Pradesh for seeking medical attention.
- iii) It was only on 23.02.2007 that the Petitioner commenced his journey back to 5th Company, Ghaziabad, however, he was constrained to again seek medical attention as he felt his condition worsening. Though the Petitioner was discharged a day thereafter on 24.02.2007, he was advised a two-weeks' rest.
- iv) As per the Petitioner, a medical report along with a request for leave was sent to the concerned officer at 5th Company, Ghaziabad, the very next day on 25.02.2007 itself. Pertinently, in his request, the Petitioner also requested the officer to stay their action in proceeding with the FIR filed against the Petitioner vis-à-vis his Caste Certificate.
- v) The Petitioner admits to have received the Articles of Charges sent to him at his home address, however, he was unable to reply thereto on account of his ill health. However, upon re-joining his duties on 26.07.2007, he immediately replied to the Articles of Charges, and claimed that they were false and baseless and prayed for exoneration on compassionate grounds.



11. Upon being cross-examined by the departmental representative, the Petitioner stated that his travel plan back to the 5th Company, Ghaziabad was scheduled on 25.02.2007, however, he was relieved earlier on 21.02.2007. As he could not arrange any travel ticket on 21.02.2007, the Petitioner chose to travel by bus up to Indore, Madhya Pradesh, where he fell ill. The Petitioner was also questioned as to why he did not report to the local police station about his medical condition, to which the Petitioner stated that he was under the assumption that he would recover early.

12. Material on record indicates that the present matter involves two segments, one being the unauthorized absence of the Petitioner and another being the forgery of caste certificate by the Petitioner.

13. Dealing with the first segment, which is covered within Charge II levied upon the Petitioner, this Court shall look into the contents of the Enquiry Report, which contains the evidences presented before the Disciplinary Authority by the Respondents.

14. The deposition of PW-2 Inspector Madhusudhan, who was a Reserve Inspector in the 5th Company Ghaziabad, indicates that the Petitioner was asked to undergo a short commando training course from 04.12.2006 to 24.02.2007 in the 55th Batch, however, the Petitioner was relieved on 19.02.2007 itself, *albeit* with the instruction to report back on 21.02.2007. However, as per PW-2, the Petitioner returned after twenty days had elapsed, on 12.03.2007. Notably, upon the cross examination by the Petitioner as to whether PW-2 received the medical certificate explaining the Petitioner's absence, the response of PW-2 was in affirmative.

15. The deposition of PW-3 Sushila Sirohi who was a Stenographer/Typist, as regards the training for which the Petitioner was



sent to on 04.12.2006, was similar to that of PW-2. Certain further details were also given by the PW-3, being that when the Petitioner did not report to the company even after 20 days from 21.02.2007, he was issued a notice dated 11.04.2007 to join duty. As per PW-3, the Petitioner was issued yet another letter dated 11.04.2007, that in case of any ailments, he could avail the medical facilities at the 5th Company. Upon cross examination of PW-3 by the Petitioner, again as to whether PW-3 received the medical certificate explaining the Petitioner's absence, the response of PW-3 also was in affirmative, specifically stating that the same was received on 06.03.2007.

16. An Enquiry Report thereafter was sent to the Disciplinary Authority on 06.09.2007, which concluded that both the above charges stood proven against the Petitioner.

17. Upon a perusal of the Enquiry Report dated 06.09.2007, the Disciplinary Authority *vide* its order dated 30.11.2007, removed the Petitioner from his service.

18. Aggrieved by the said order dated 30.11.2007, the Petitioner approached the statutory Appellate Authority *vide* an appeal petition dated 20.12.2007, *inter alia* praying for the setting aside of the penalty of removal of service awarded to him by the Disciplinary Authority. The said appeal came to be rejected by the Appellate Authority *vide* the order dated 24.03.2008.

19. Aggrieved by the dismissal of his appeal, the Petitioner approached the statutory Revisional Authority, being the Inspector General, North Sector, CISF, by way of a revision petition dated 22.04.2008. The said revision petition of the Petitioner also came to be dismissed *vide* the



Order dated 17.07.2008. It is this order passed by the Revisional Authority which is under challenge in the present writ petition.

20. Learned Counsel for the Petitioner has submitted as under:

- i) In respect of Charge I, that the Petitioner is a member of the Caste 'Manjhi' (Dhimar) which is declared in the concerned Case Certificate dated 21.08.1991.
- ii) The Letter bearing No. Akash/29/93/31653 dated 13.12.1993 issued by the Commissioner, Scheduled Tribe, Madhya Pradesh to all the Collectors of Madhya Pradesh clearly indicates that the sub-caste of 'Manjhi' is included in the Scheduled Tribes and in turn, certain sub-castes like 'Dheemar', Mai, Kahar, Dhivar, Mallah, Nawada, Kewat, Keer, Turha, Singraha, Jalari, Kashyap, Nishad Rai, Kawar, Vritia, Batthe and Vritika are included within the scope of 'Manjhi'.
- iii) The Government of Madhya Pradesh, Tribal Welfare Department Mantralaya, Bhopal *vide* its letter bearing No. F-7-26/99/25-5 dated 15.01.2003 intimated to the Secretary, Ministry of Tribal Affairs that the tribes of 'Dheemar', Kevat, Kehar, Bhoi, Mallah and Nishad must be included in the list of Scheduled Tribes. It was also intimated that the caste of 'Manjhi' and 'Manjhawar' are Scheduled Tribes and accordingly, the other sub castes of Dheewar, Kevar, Kahar, Moi, Mallah and Nishad must also be included as Scheduled Tribes.
- iv) In respect of Charge II, that the Petitioner was admitted in Hospital, and the medical records, in particular, the medical certificate issued by the Government Medical Officer, Datiya,



have not been disputed by the Respondent. As such, it is submitted that Charge II is baseless.

21. *Per contra*, learned Counsel for the Respondents has submitted as under:

- i) The Petitioner belongs to the caste 'Dhimar', which is recognized as an Other Backward Class, and not 'Manjhi', which is recognized as a Scheduled Tribe for the State of Madhya Pradesh under the Constitution (Scheduled Tribes) Order, 1976.
- ii) The verification exercise undertaken by the Respondents, which brought forward the fact that the Petitioner's father belonged to the 'Dhimar' caste, was a conclusive proof that the Petitioner did not belong to the 'Manjhi' caste.
- iii) Owing the revelation of the Petitioner's father's caste in the land and revenue records being that of 'Dhimar', which is recognized as an Other Backward Class, the Petitioner's claim of belonging to the Scheduled Tribes cannot be sustained. Moreover, the Petitioner's claim is *ex facie* not maintainable, since the Constitution (Scheduled Tribes) Order, 1976 specifies only the caste 'Manjhi' for the State of Madhya Pradesh.
- iv) A fresh verification obtained by the Respondent from the Office of Tehsildar, Bhandar, District Datiya, Madhya Pradesh, pursuant to the order dated 18.01.2024 passed by this Court, brought forth the Report dated 23.01.2024. The said Report categorically stated that the Petitioner belongs to the caste 'Dhimar' that falls under Other Backward Classes.



v) As the Petitioner had obtained his appointment to CISF on the basis of an unverified and untenable caste certificate, his appointment is invalid in law.

22. Heard the learned Counsels for the parties and perused the material on record.

23. In the background of the present case, while considering the arguments of Charge I, it is apposite to refer to Article 366(25) of the Constitution of India, which defines ‘Scheduled Tribes’ and reads as under:

“366. Definitions

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;”

24. Due reference is also made to Article 342 of the Constitution of India, which reads as under:

“342. Scheduled Tribes

(1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”



25. Thus, as per Article 342(1) of the Constitution of India, the communities recognized for each state are those specified in the Constitution (Scheduled Tribes) Order, 1976, as amended from time to time by the Parliament and Article 342(2) vests the exclusive power with the Parliament, to amend or vary the list and in absence of such an amendment, no claim can be sustained that a caste not expressly notified therein is entitled to the Scheduled Tribe status.

26. In the present case, at the time of recruitment in 2003, the Petitioner had produced the Scheduled Tribe Caste Certificate dated 21.08.1991 bearing Serial No. 14/90-9/SC/S1 issued by the Collector, District Datiya, Madhya Pradesh. On the basis of the relevant selection criteria at the time, the Petitioner was recruited as Constable to the post reserved for candidates belonging to Scheduled Tribes, and was sent for training to National Industrial Security Academy, Hyderabad. Subsequently, in terms of the order dated 14.09.2005 passed by this Court in Chandeshwar Prasad (supra), the Respondents by a letter dated 25.03.2006 had requested the Collector of District Gwalior, Madhya Pradesh, to examine the authenticity of the Petitioner's certificate. In response, the Divisional Officer, Bhandar, District Datiya, Madhya Pradesh sent his finding *vide* a letter dated 27.04.2006, which conveyed that the Scheduled Tribe Caste Certificate dated 21.08.1991 bearing Serial No. 14/90-9/SC/S1, was not found anywhere in the registered records. However, it was also mentioned that the father's name of the Petitioner was found in Survey No. 74, and his community was described as 'Dhimar', which is included in the category of Other Backward Classes,



meaning thereby that the Petitioner also belongs to the 'Dhimar' community.
Contents of the said Letter dated 27.04.2006 read as under:

“

*Divisional Officer, District Court, Bhandar,
Datiya District
No.460/05-06/B-342 Dated 27.04.2006*

*To,
Collector,
Datiya District,
R.M. Department.*

*Sub: Order of the Hon'ble High Court of Delhi in
C.W.P.No.5976/03-dissection to re-examine the
caste/Tribe Certificate of Sh.Suraj Singh*

*Ref: Your Letter No. q/RM/Vividh/1079 dated
19.4.2006.*

*In the abovementioned subject, the Tehsildar
Bhandar had conducted enquiry in caste/Tribe
Certificate of Suraj Singh S/o Hardayal Manjhi r/o
Kazipata, Bhandar.*

*In his inquiry report No. Q-R-1/Enquiry Report
06 dated 26.4.06, Tehsildar Bhandar has stated that the
caste/tribe certificate of Suraj Singh No.-14/90-91
dated 21.8.91 is not found in the register. As per the
report of Patwari the Caste/Tribe of the applicant is
Kewat and in the Survey No.74, Manja Alapur
applicant's father's name Hardayal is shown to belong
to Dheewar community.*

*As per the Madhya Pradesh Gazette Part-I
dated 8.12.85 Kewat, Dami Community is found at Sl.
No. 12 of the list which falls under other backward
communities.*



Annexing with the report of Tehsildar Bhandar, necessary enquiry papers for further action are transmitted to you.

*Enclosure:
Tehsildar's letter dated 26.4.06
Patwari Report
Panchnama
Copy of the Khasra
Copy of the ration card
Copy of the certificate*

*Divisional Officer
Bhandar"*

27. During the course of hearing, learned Counsel for the Petitioner submitted that when the statement of the Petitioner belonging to the 'Manjhi' caste has been verified by Tehsildars in three different years, that is, in 1991, 2001 and thereafter in 2002, then the veracity of such verification must be considered as valid. However, in view of the material placed on record before this Court, it is difficult to agree with this argument of the learned Counsel for the Petitioner. In the event that the Petitioner's contention is taken to be as true and he is considered to be belonging to the 'Manjhi' caste and thus under the Scheduled Tribes, then the land and revenue records that reflect the Petitioner's father belonging to the 'Dhimar' community and thus, under the Other Backward Class, would become false. The Petitioner has failed to explain this contradiction.

28. Learned Counsel for the Petitioner has drawn the attention of this Court to letters dated 13.12.1993 and 15.01.2003, both of which have been issued by the Deputy Director, Tribal Development, Madhya Pradesh. Contents of both the respective letters read as under:



2025:DHC:8123-DB



*“Office of the Director Tribal Development
Madhya Pradesh*

Sl. No. AKS/29/93/31653 Bhopal dated 13.12.93

*To,
All Collectors*

*Sub: Inclusion of Sub-Tribes of Manjhi Tribe in the list
of Scheduled Tribes.*

The sub-tribes of Manjhi Tribes are shown below.

*Dheever, Bhoi, Kahaar, Dheever, Mallah, Naavadah,
Kewat, Turha, Singliraha, Jaalaari, Sondhiya,
Kashyap, Nishad, Raykalar, Bayagi, Buliya, Vritika;
there is discussion going on to include these sub-tribes
in the Manjhi Tribe. Districtwise population of these
sub-tribes should be enumerated within a week so that
the Government can ascertain the actual State of
Affairs.*

Enclosure 1

*Sd/- Deputy Director
Tribal Development
Madhya Pradesh*

A/K/29/93/31654

Bhoptal dt. 13.1993”

*“GOVERNMENT OF MADHYA PRADESH TRIBAL
WELFARE DEPARTMENT MANTRALYA, BHOPAL*

NO. F-7 26/99/25-5 BHOPAL; DATED 15.01.2003

*TO,
Secretary
Government of India,
Ministry of Tribunal Affairs,*



*Shastri Bhawan,
NEW DELHI.*

*Sub- Inclusion of Dheemar, Kevat; Kahar, Bhoi,
Mallah, Nishad in the constitution (Schedule Tribes
Orders,*

Dear Sir,

*As per the direction of the state Government, I
enclose recommendation of the committee
constituted by General Administration
Department, Government of Madhya Pradesh on
the matter for including the above mentioned
group in entry No.29 & 30 of the Constitution
(Scheduled Tribes) Order 1950. The proposal
and the detailed recommendation are enclosed
herewith.*

Encl. As above.

*Yours Faithfully,
Sd/-
(Smt. Suranjana Ray)
Secretary.”*

29. The above two letters indicate that there was an ongoing discussion regarding the inclusion of sub-tribes such as ‘Dhimar’, Bhoi, Kahaar, Dheevar, Mallah, Naavadah, Kewat, Turha, Singliraha, Jaalaari, Sondhiya, Kashyap, Nishad, Raykalar, Bayagi, Buliya, Vritika, within the Manjhi Tribe. The second letter dated 15.01.2023 encloses the recommendations of the committee constituted by the General Administration Department [“GAD”], Government of Madhya Pradesh, on the matter of including the concerned groups in the ‘Manjhi’ tribe categorized as a Scheduled Caste as per the Constitution (Scheduled Tribes) Order, 1950.



30. Reliance has also been placed by the learned Counsel for the Petitioner on a letter dated 07.09.1998 issued by the GAD, Government of Madhya Pradesh, which ordered for proceedings against the members of 'Manjhi' community holding a Scheduled Tribe caste certificate to be kept in abeyance.

31. This Court has also perused another Letter dated 11.11.2005 issued by the GAD, Government of Madhya Pradesh, which is also extracted below in its entirety:

*“Government of Madhya Pradesh
General Administration Department
Secretariat*

Vallabh Bhawan-Bhopal 462004

Sl. No. F.7-36/2004/JKOPO/1

Bhopal dated 11.11.2005

To,

All the Departments of Government

President of Local Mandals M.P. Gwalior

All Divisional Heads

All District Collectors

All Executive Officers

District Panchayats M.P.

*Sub: Order to stay all the action/proceedings initiated
against person holding the Manjhi Castes/Tribe*

*Ref: Reminder Sl. No. F7-4/98/AO PO/1 dated
6.3.1998 even number dated 7.9.1998, 25.9.1999 and
Sl. No. F 7-36/2004 AO PO/1 dt. 20.3.2005.*

*It is hereby ordered that, if any individual holding a
certificate of Manjhi caste a Scheduled Tribe and
secured/obtained reservation on that basis, and/or
received/obtained, receiving or obtaining any other
facilities/privileges/benefits should be continued*



uninterrupted to that person or those persons. This order issues from the Department of General Administration of the Government of Madhya Pradesh Bhopal.

It is further clarified and ordered this Department that if action/proceeding is against any individual who held or holding a certificate of Manjhi Caste which is a Scheduled Tribe, such action/proceeding should be stayed at once and kept in abeyance.

It is furthermore clarified that the castes of Deever, Kewat, Kahaar, Bhoi, Mallah, Nishad, Naavda, Dhimar, Turha etc. have not been included by Government of India as Scheduled Tribes in notifications issued under the Scheduled Castes/Tribes order 1950. In the State of Madhya Pradesh these castes have been recognized aborigine/notified and backward castes/classes by the Welfare Department in its notification Sl. No. F-8-5/twenty five-4-84 dated 26th December, 1984 included in the list of other backward classes. In the circumstances, therefore, except persons of Manjhi Caste none of these abovementioned sub-castes new scheduled Tribes certificates should not be issued.

In the light of what is said above that whenever a holder of Manjhi Tribe Certificate is to be bestowed with reservation/benefits/privileges/facilities from the Government, the concerned officer should clarify/confirm from the concerned District Collector that the holder of the Manjhi Tribe is basically ordinarily a member of the Manjhi scheduled Tribe.

These orders should be enforced with due diligence and care.

Issued under the name



2025:DHC:8123-DB



*and by the order of the
Governor, Madhya Pradesh*

*Khushi Ram
Chief Secretary
Govt. of Madhya Pradesh
Department of General Administration
Bhopal Dt. 11.11.2005”*

32. Perusal of the above letter clearly mentions that castes of Dheevar, Kewat, Kahaar, Bhoi, Mallah, Nisad, Naavda, Dhimar, Turha, etc., have not been included by the Government of India as Scheduled Tribes. Rather, these castes have been recognized as Other Backward Classes by the Welfare Department in its Notification dated 26.12.1984 bearing Sl. No. F-8-5/twenty-five-4-84. The letter specifically mentions that except persons of ‘Manjhi’ Caste, none of the abovesaid sub-castes can be issued a Scheduled Tribe caste certificate. As such, no doubt is cast on the factum of inclusion of ‘Dhimar’ community as well as Kewat in the category of Other Backward Classes since the year 1984, which is seven years prior to the issue of the Scheduled Tribe caste certificate issued to the Petitioner. In any event, this letter merely provides for necessitating stay on proceedings against such persons, pending the discussion of the State Government of Madhya Pradesh regarding inclusion of the above castes within ‘Manjhi’ community.

33. Additionally, a letter dated 01.01.2018 issued in the name of the Governor of Madhya Pradesh has also been placed on record, contents of which read as under:



2025:DHC:8123-DB



*“MADHYA PRADESH GOVERNMENT
DEPARTMENT OF GENERAL ADMINISTRATION
MINISTRY
VALLABH BHAWAN, BHOPAL-462004*

Number F 7-47 /2016 /AP/ One Bhopal, dated 01 January 2018

*To,
All government departments
Chairman, Board of Revenue, M.P. Gwalior
All Divisional Commissioner
All District Collectors
All Heads of Departments All Chief Executive Officers,
District Panchayat
Madhya Pradesh*

Subject:- In respect of providing protection to such persons of caste as Dhiwar, Kahar, Bhoi, Kevat, Mallah, Nishad etc. who have got admission in government service/educational institutions on the basis of caste certificate of "Majhi" tribe.

It has been decided by the state government that persons belonging to Dhivar, Kahar, Bhoi, Kevat, Mallah, Nishad castes, who have got employment in government services and educational institutions before 11.11.2005 on the basis of caste certificate of "Manjhi" Scheduled Tribe, have gained admission, they should be provided protection. But after the said date, they will not be given the benefit of reservation, considering them not under the Scheduled Tribes.

*In the name of the Governor of Madhya Pradesh
and by order
(K. K. Katia)
Additional Secretary*



*Madhya Pradesh Government
Department of General Administration”*

34. The above letter, while making specific reference to the previously quoted letter dated 11.11.2005, conveys a decision of the State Government of Madhya Pradesh, being that persons belonging to Dhivar, Kahar, Bhoi, Kevat, Mallah and Nishad castes, who have got employment in government services before 11.11.2005 on the basis of caste certificate of ‘Manjhi’ Scheduled Tribe, should be given protection, however, this protection will not extend beyond 11.11.2005.

35. At the outset, it is an undisputed fact that the above letter dated 01.01.2018 does not make a mention of ‘Dhimar’ community, to which the Petitioner belongs to. Even assuming the same is impliedly included, it cannot be ignored that even the revenue records indicate that the Petitioner’s father belonged to the ‘Dhimar’ community, which has been categorized as Other Backward Classes since 1984. Despite this, the Petitioner possessing a caste certificate of ‘Manjhi’ Scheduled Tribe, raised serious doubts on its veracity. In any event, the said certificate was “unregistered”.

36. This Court has also looked into the Constitution of Scheduled Tribes Order, 1976 which shows ‘Manjhi’ Caste as a Scheduled Tribe in the State of Madhya Pradesh but it does not include ‘Dhimar’. However, the Gazette Notification dated 27.10.1999 issued by the Government of India, which enumerates Other Backward Classes in the State of Madhya Pradesh, ‘Dhimar’ community is shown as Other Backward Classes. Therefore, all the letters/communications issued by the Government of Madhya Pradesh pale into insignificance and ‘Dhimar’ community cannot be included as a



part of 'Manjhi' Tribe of Madhya Pradesh, entitling the Petitioner to be falling in the category of Scheduled Tribe.

37. Be that as it may, fact of the matter still remains this Court has not seen any amendment to the effect of bringing the 'Dhimar' community within the scope of 'Manjhi' Caste, though, material on record without any doubt indicates that 'Dhimar' community has continued to be categorized as an Other Backward Class since 1984. Therefore, the argument of the learned Counsel for the Petitioner that 'Dhimar' community is a part of 'Manjhi' Tribe cannot be accepted.

38. In this background, judgment of the Apex Court in State of Maharashtra v. Milind, (2001) 1 SCC 4, becomes relevant for discussion, since it has been held therein as under:

“33. The High court in paras 20 to 23 dealt with circulars/resolutions/instructions/orders made by the Government from time to time on the issue of “Halba-Koshtis”. It is stated in the said judgment that up to 20-7-1962 “Halba-Koshtis” were treated as “Halbas” in the specified areas of Vidarbha. The Government of Maharashtra, Education and Social Welfare Department issued Circular No. CBC 1462/3073/M to the effect that “Halba-Koshtis” were not Scheduled Tribes and they are different from “Halba/Halbis”. In the said circular it is also stated that certain persons not belonging to “Halba” Tribe have been taking undue advantage and that the authorities competent to issue caste certificates should take particular care to see that no person belonging to “Halba-Koshtis” or “Koshti” community is given a certificate declaring him as a member of Scheduled Tribes. On 22-8-1967 the abovementioned circular of 20-7-1962 was withdrawn. Strangely, on 27-9-1967, another Circular No. CBC-1466/9183/M was issued showing the



*intention to treat “Halba-Koshti” as “Halba”. On 30-5-1968 by Letter No. CBC-1468-2027-O, the State Government informed the Deputy Secretary to the Lok Sabha that “Halba-Koshti” is “Halba/Halbi” and it should be specifically included in the proposed amendment Act. The Government of Maharashtra on 29-7-1968 by Letter No. EBC-1060/49321-J-76325 informed the Commissioner for Scheduled Castes and Scheduled Tribes that “Halba-Koshti” community has been shown included in the list of Scheduled Tribes in the State and the students belonging to that community were eligible for the Government of India Post-Matric Scholarships. On 1-1-1969 the Director of Social Welfare, Tribal Research Institute, Pune, by his Letter No. TRI/I/H.K./68-69 stated that **the State Government could not in law amend the Scheduled Tribes Order and that a tribe not specifically included, could not be treated as Scheduled Tribe.** In this view the Director sought for clarification. The Government of India on 21-4-1969 wrote to the State Government that **in view of Basavalingappa case [AIR 1965 SC 1269 : (1965) 1 SCR 316] “Halba-Koshti” community could be treated as Scheduled Tribe only if it is added to the list as a sub-tribe in the Scheduled Tribes Order and not otherwise.** Thereafter, few more circulars were issued by the State Government between 24-10-1969 and 6-11-1974 to recognise “Halba-Koshtis” as “Halbas” and indicated as to who were the authorities competent to issue certificates and the guidelines were given for inquiry. There was again departure in the policy of the State Government by writing a confidential Letter No. CBC-1076/1314/Desk-V dated 18-1-1977. The Government informed the District Magistrate, Nagpur, that “Halba-Koshtis” should not be issued “Halba” caste certificate. Thereafter, few more circulars, referred to in para 22 of the judgment, were issued. It may not be necessary to refer to those again except to the circular dated 31-7-1981 bearing No. CBC-*



*1481/(703)/D.V. by which the Government directed that until further orders insofar as “Halbas” are concerned, the School Leaving Certificate should be accepted as valid for the purpose of the caste. Vide resolution dated 23-1-1985 a new Scrutiny Committee was appointed for verification of caste certificates of the Scheduled Tribes. The High Court had observed in para 23 of the judgment that several circulars issued earlier were withdrawn but the said circular dated 31-7-1981 was not withdrawn. For the first time on 8-3-1985 the Scrutiny Committee was authorised to hold inquiry if there was any reason to believe that the certificate was manipulated or fabricated or had been obtained by producing insufficient evidence. Referring to these circulars/resolutions the High Court took the view that the caste certificate issued to Respondent 1 could be considered as valid and up to 8-3-1985 the inquiry was governed by circular dated 31-7-1981. The High Court dealing with the stand of the State Government on the issue of “Halba-Koshti”, from time to time, and also referring to circulars/resolutions/instructions held in favour of Respondent 1 on the ground that the appellant was bound by its own circulars/orders. **No doubt, it is true, the stand of the appellant as to the controversy relating to “Halba-Koshti” has been varying from time to time but in the view we have taken on Question 1, the circulars/resolutions/instructions issued by the State Government from time to time, sometimes contrary to the instructions issued by the Central Government, are of no consequence. They could be simply ignored as the State Government had neither the authority nor the competency to amend or alter the Scheduled Tribes Order. It appears taking note of false and frivolous claims being made by persons not entitled to claim such status, the Government of India addressed letters and issued instructions between the period from 21-4-1969 to***



1982 to impress that there should be strict inquiry before issuance of caste certificates to persons claiming Scheduled Caste/Scheduled Tribe status; strict scrutiny into the caste of the parent should be effected as a checkpoint. The State Government issued resolution dated 29-10-1980 in consonance with the instructions given by the Central Government laying down the guidelines on which the inquiry should be held before issue of the caste certificate. Another resolution dated 24.2.1981 was also issued for appointing a Scrutiny Committee to verify whether the caste certificate has been issued to a person who is really entitled to it in view of the complaints of misuse of reservational benefits on a large scale. These resolutions were operative as they had not been repealed. This Court in its judgment dated 19-10-1984 *State of Maharashtra v. Abhay* [1984 Supp SCC 701 : AIR 1985 SC 328] directed that the State of Maharashtra should devise and frame a more rational method for obtaining much in advance a certificate on the strength of which a reserved seat is claimed. But the High Court committed an error in interpreting the scope of the circular dated 31-7-1981 that the School Leaving Certificate was conclusive of the caste. This interpretation was plainly inconsistent with the instructions and resolutions stated above. Further, it may be also noticed here that the Joint Parliamentary Committee did not make any recommendation to include "Halba-Koshti" in the Scheduled Tribes Order. **At any rate the Scheduled Tribes Order must be read as it is until it is amended under clause (2) of Article 342.** In this view also, the circulars/resolutions/instructions will not help Respondent 1 in any way. Even otherwise, as already stated above, on facts found and established the authorities have rejected the claim of Respondent 1 as to the caste certificate. The power of the High Court under Article 227 of the Constitution of India, while



exercising the power of judicial review against an order of inferior Tribunal being supervisory and not appellate, the High Court would be justified in interfering with the conclusion of the Tribunal, only when it records a finding that the inferior Tribunal's conclusion is based upon exclusion of some admissible evidence or consideration of some inadmissible evidence or the inferior Tribunal has no jurisdiction at all or that the finding is such, which no reasonable man could arrive at, on the materials on record. The jurisdiction of the High Court would be much more restricted while dealing with the question whether a particular caste or tribe would come within the purview of the notified Presidential Order, considering the language of Articles 341 and 342 of the Constitution. These being the parameters and in the case in hand, the Committee conducting the inquiry as well as the Appellate Authority, having examined all relevant materials and having recorded a finding that Respondent 1 belonged to "Koshti" caste and has no identity with "Halba/Halbi" which is the Scheduled Tribe under Entry 19 of the Presidential Order, relating to the State of Maharashtra, the High Court exceeded its supervisory jurisdiction by making a roving and in-depth examination of the materials afresh and in coming to the conclusion that "Koshtis" could be treated as "Halbas". In this view the High Court could not upset the finding of fact in exercise of its writ jurisdiction. Hence, we have to essentially answer Question 2 also in the negative. Hence it is answered accordingly.

xxx

35. In order to protect and promote the less fortunate or unfortunate people who have been suffering from social handicap, educational backwardness besides other disadvantages, certain provisions are made in the



Constitution with a view to see that they also have the opportunity to be on par with the others in the society. Certain privileges and benefits are conferred on such people belonging to Scheduled Tribes by way of reservations in admission to educational institutions (professional colleges) and in appointments in services of State. The object behind these provisions is noble and laudable besides being vital in bringing a meaningful social change. But, unfortunately, even some better-placed persons by producing false certificates as belonging to Scheduled Tribes have been capturing or cornering seats or vacancies reserved for Scheduled Tribes defeating the very purpose for which the provisions are made in the Constitution. The Presidential Orders are issued under Articles 341 and 342 of the Constitution recognising and identifying the needy and deserving people belonging to Scheduled Castes and Scheduled Tribes mentioned therein for the constitutional purpose of availing benefits of reservation in the matters of admissions and employment. If these benefits are taken away by those for whom they are not meant, the people for whom they are really meant or intended will be deprived of the same and their sufferings will continue. Allowing the candidates not belonging to Scheduled Tribes to have the benefit or advantage of reservation either in admissions or appointments leads to making mockery of the very reservation against the mandate and the scheme of the Constitution.”

(emphasis supplied)

39. In Kumari Madhuri Patil v. Additional Commissioner, (1994) 6 SCC 241, the Apex Court has held that persons who got admission or got the appointment on the basis of false caste certificate thereby usurping the seat/post reserved for the Scheduled Castes/Scheduled Tribes were required



to be weeded out by prompt action. Relevant paragraphs from the said judgment are extracted below:

“13. 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...”

40. In view of the expansive material on record, this Court can easily arrive at the conclusion that since the father of the Petitioner belonged to the ‘Dhimar’ community, which is categorized in the Other Backward Classes. Therefore, this Court does not see any reason to interfere with the findings recorded in the Enquiry Report, on the basis of which the Disciplinary Authority removed the Petitioner from service, and the subsequent reaffirming of this penalty by the Appellate Authority as well as the Revisional Authority.



41. Coming to the next segment of Charge II, being the Petitioner's absence without leave. Material on record indicates that there is no denial that the Petitioner had been absent without leave for nearly 5 months. As the Petitioner admitted his absence without leave, the burden was on him to give a plausible and justifiable reason as also to establish the same with documentary evidence. Since the Petitioner failed to produce reliable oral and documentary evidence in support of his pleas and contentions and in these circumstances if the Respondents have held that the Charge II against the Petitioner has been established, it cannot be held that the decision of the Respondents is irrational, especially, since the only explanation for his absence without leave was only on account of his medical exigencies.

42. It is also relevant to note that the Petitioner has stated that he was following the movement order which directed him to return to 5th Reserve Battalion, Ghaziabad on 21.02.2007, however, he fell ill during his travel to Ghaziabad, and that thereafter he was seeking treatment in Indore, Madhya Pradesh. On commencing back to Ghaziabad he felt his condition worsening and was constrained to seek medical attention. Later, the Petitioner was issued a Fitness Certificate on 25.02.2007 from the Government Hospital, Datiya, but was advised a bed rest for two weeks. If that be the case, the Petitioner should have reported back to 5th Reserve Battalion, Ghaziabad by 10.03.2007. That was not so, as he only came to join back on 26.07.2007, which was nearly five months after the period of advised bed rest had elapsed.

43. This Court is of the opinion that with the above factual background, the conclusions contained in the Enquiry Report do not warrant any interference as regards Charge II levied on the Petitioner, more so, when



absence is in the CISF, where discipline is of paramount importance, and is a serious offence on the part of the Petitioner, which warrants a punishment.

44. The scope of interference in such cases by this Court is very limited. The Petitioner has not been able to demonstrate that this was a case of no evidence or of any perversity. As long as there is some evidence, this Court does not normally interfere with the orders passed in disciplinary proceedings and particularly when findings of fact are under challenge. This Court does not indulge in re-appreciation of evidence which has been gone into by the Disciplinary Authority and by the Appellate Authority as also by the Revisional Authority.

45. At this stage, this Court deems it appropriate to recall the law laid down by the Apex Court through a catena of judgments, on the scope of interference by a writ court. It is settled law that a writ petition is not an appeal against the findings of Enquiry Officer and the orders passed by the Disciplinary Authority and Appellate Authority nor this court is exercising or assuming the role of the Appellate Authority. It, thus, cannot interfere with the findings of the fact arrived at by the respondents except in the case of mala-fides or perversity i.e., where there is no evidence to support a finding or where the finding is such that no one acting reasonably or with objectivity could have arrived at or where a reasonable opportunity has not been given to the accused to defend himself or it is a case where there has been non application of mind on the part of the enquiry officer, disciplinary authority or if the charges are vague or if the punishment imposed is shocking to the conscience of the Court.

46. In fact, the Apex Court in M.V. Bijlani v. Union of India & Ors., (2006) 5 SCC 88, has observed that the scope of judicial review is limited to



the decision making process only and cannot involve re-appreciation of evidence produced by the parties in the course of such decision making process and has held as under:

“25. It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceeding are not required to be proved like a criminal trial i.e. beyond all reasonable doubt, we cannot lose sight of the fact that the enquiry officer performs a quasi-judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.”

47. The learned counsel for the Petitioner has not pointed out any such illegalities, irrationalities or any procedural improprieties which vitiates the Enquiry Report, order of the Disciplinary Authority or that of the Appellate Authority or that of the Revisional Authority.

48. It cannot be denied that while exercising the power for judicial review what is to be seen is whether the actions of the Respondents fall within any of the categories demarcated in the various judicial pronouncements as above.

49. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India will not substitute its inferences, if any, different from



2025:DHC:8123-DB



that of the Enquiry Officer and the Disciplinary Authority so long as the inferences drawn by them are reasonably possible. The learned counsel for the Petitioner has not been able to show or demonstrate any patent or manifest error in exercise of power by the Respondents. No such factors have been made out which will make the decision of the respondents unreasonable or establish that the Respondents have taken into consideration any irrelevant factors while awarding the punishment of removal from service to the Petitioner.

50. In the totality of the facts and circumstances, the Petitioner has not been able to make out any such illegality, irregularity or perversity in the decisions of the respondents which will require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

51. The writ petition is thus without any merits, and is, therefore, dismissed along with pending applications, if any.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

SEPTEMBER 12, 2025

hsk/AP