**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 12th OF DECEMBER, 2022

WRIT PETITION No. 4794 OF 2020

Between:-

LADDURAM KORI, SON OF SHRI PHOOLCHAND, AGED 53 YEARS, OCCUPATION – AGRICULTURIST, R/O WARDNO.13, NEAR BIJASEN MATA MANDIR, ASHOK NAGAR, DISTT. ASHOK NAGAR (M.P.)

……..PETITIONER

(BY SHRI R.D. JAIN, SENIOR ADVOCATE WITH SHRI SANGAM JAIN, AJAY BHARGAVA, SHRI DHARMENDRA SINGH CHAUHAN AND SHRI MAYANK PATHAK - ADVOCATES)

AND

1. STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY, DEPARTMENT OF TRIBAL WELFARE, VALLABH BHAVAN, BHOPAL (M.P.).
2. HIGH POWER CASTE SCRUTINY COMMITTEE THROUGH ITS PRESIDENT, VALLABH BHAVAN, BHOPAL (M.P.)
3. THE COMMISSIONER TRIBAL WELFARE, RAJIV GANDHI BHAWAN, SHYAMLA HILLS, BHOPAL (M.P.)
4. THE SUPERINTENDENT OF

POLICE, ASHOK NAGAR (M.P.)
5. JAJPAL SINGH S/O SHRI GURUMEJ SINGH, AGED 55 YEARS, R/O WARD NO.7,VIDISHA ROAD, ASHOK NAGAR (M.P.)

.....RESPONDENTS

(BY SHRI G.K. AGARWAL ADVOCATE FOR RESPONDENTS NO. 1 TO 4)
(SHRI ANIL MISHRA WITH SHRI S.S. GAUTAM, MS. HARSHITA MISHRA AND SHRI AKRAM KHAN, ADVOCATES FOR RESPONDENT NO.5)

Heard on : 9th - December -2022
Delivered on : 12th- December - 2022

This writ petition coming on for hearing this day, ***Hon'ble Shri Justice G.S. Ahluwalia,*** *passed the following:*

JUDGEMENT

1. The Petitioner Ladduram Kori, has also filed an Election Petition against the respondent no. 5 which is registered as E.P. No. 8/2019 and by order dated 5-9-2022, passed in E.P. No. 8/2019, it was directed that this petition shall be taken up along with E.P. No. 8/2019 for analogous hearing. The said order was affirmed by Supreme Court by order dated **14-10-202**2 passed in **S.L.P. (Civil) No. 18154/2022.**

2. Thereafter, the recording of evidence started in E.P. No. 8/2019 and on 5-12-2022, an objection was raised by the Counsel for the respondent no. 5, that the Election Petitioner/Petitioner in the present case, cannot give any evidence relating to any material touching the merits of this case, because it may prejudice the mind of this Court.

3. Although this Court negatived the submission made by the

Counsel for the respondent no. 5 that any evidence given by Election Petitioner would prejudice the mind of the Court, because each and every case is to be decided on the basis of material available in the said case, but even then in order to avoid any confusion in the mind of the respondent no. 5, this Court deferred the recording of Examination-in-chief of Election Petitioner. Since, the respondent no. 5 was creating all sorts of hurdle in recording of evidence in respect of the previous conduct of the respondent no. 5, by objecting that the genuineness of Caste Certificate cannot be adjudicated in Election Petition, therefore, this Court was left with no other option, but to take up this case first, because the respondent no. 5 who is a sitting M.L.A. cannot be permitted to hamper the progress in E.P. No. 8/2019 as well as to keep this petition pending. Accordingly by order dated 5-12-2022, the recording of evidence of Petitioner in E.P. No.8/2019 was deferred and it was directed that the present case shall be taken up for final hearing at motion stage on 9-12-2022. Accordingly, this case has been heard finally at motion stage. Furthermore, as per the direction of the Supreme Court in the case of **Madhuri Patil (Supra)** this Petition should have been decided within six months whereas more than 2 years and 09 months have passed from the date of filing of this petition. Therefore, also, it was necessary to decide this petition urgently.

4. This petition under Article 226 of the Constitution of India has been filed seeking the following relief(s) :

> (i) That, the impugned order dated18-12-2019 (Annexure P.1) may kindly be set aside.
>
> (ii) That, the impugned caste certificate No.31/B-121/08-09 dated 6-11-2008 issued in favor of respondent no.5 Jajpal Singh may kindly be cancelled.

(iii) That, appropriate direction to the respondent authority be issued to take appropriate action against the respondent no.5 Jajpal Singh in the light of direction issued by the Hon'ble Supreme Court in the case of Madhuri Patil.

(iv) That, any other relief deem fit in the interest of justice may kindly be granted including the cost.

5. According to the Petitioner, he belongs to Kori Caste, which is a Scheduled Caste in the State of M.P. In exercise of power under Article 341 of Constitution of India, the President of India has declared "Nat" Caste as Scheduled Caste in the State of M.P. A provision for reservation has been made in order to uplift the down trodden and under privileged persons, but unscrupulous persons, who belong to unreserved category and belong to higher social and economical status, have obtained false caste certificates in order to take advantage of reservation.

6. It is the case of the petitioner that forefather of the respondent no. 5 were the residents of Punjab and they migrated from Punjab and settled down in the State of M.P.

7. Initially, the respondent no. 5 obtained the Caste Certificate of "OBC" by claiming himself to be the member of "Keer" Caste and on the basis of such Caste Certificate, he contested the election of Municipal Council Ashok Nagar and got elected as President, Municipal Council, Ashok Nagar.

8. One Baijnath Sahu, filed a writ petition No.1330/2002, and highlighted the forgery committed by respondent no. 5 and the said writ petition was disposed of by this Court by order dated 12-8-2002, thereby granting liberty to Baijnath Sahu to approach the competent Government Authority. Accordingly, Baijnath Sahu, approached High Power Caste Scrutiny Committee. By order dated 25-2-2004, the High Power Caste

Scrutiny Committee, cancelled the "OBC" certificate granted to the respondent no. 5.

9. The order dated 25-2-2004, was assailed by respondent no. 5 by filing writ petition No.520/2004. The said writ petition was allowed and the order dated 25-2-2004 was set aside on the ground of lack of quorum and the matter was remanded back to decide the matter afresh. The Committee was reconstituted, which reconsidered the case of the respondent no. 5 and came to a conclusion that the respondent no. 5 has wrongly obtained the caste certificate of "OBC" and by order dated 11-11-2004, the "OBC" caste certificate issued in favor of respondent no. 5 was cancelled. Accordingly, an FIR was also lodged against the respondent no. 5 in crime No.161/2010 at Police Station Ashok Nagar and according to the petitioner, the matter is still pending.

10. It is the case of the petitioner, that the respondent no. 5 has again obtained the Caste Certificate by claiming that he belongs to "Nat" caste which is a Scheduled Caste in the State of M.P.

11. One Ramesh Kumar Itoriya, assailed the said caste certificate and the matter was once again referred to High Power Caste Scrutiny Committee and the said certificate was cancelled by High Power Caste Scrutiny Committee by order dated 16-9-2013. The aforesaid order was assailed by the respondent no. 5 by filing W.P. No. 7047/2013. During the pendency of the said writ petition, the respondent no. 5 contested the election of Legislative Assembly held in the year 2018, from Ashok Nagar which is reserved for Scheduled Caste. The respondent no. 5 was declared elected. The writ petition no. 7047/2013 came up for hearing which was decided by order dated 01-5-2019 and held that although the

respondent no. 5 had avoided the notices issued by High Power Caste Scrutiny Committee, but since, the date of hearing was not mentioned in the notice, therefore, the matter was remanded back with a direction to decide the matter afresh as per the guidelines.

12. Now, the High Power Caste Scrutiny Committee, by the impugned order dated 18-12-2019, has upheld the Caste Certificate of "Nat" which was issued in favor of the respondent no. 5, by holding that in the Jamabandi (Khasra) of Village Khara, Tahsil Tarn Taran, Distt. Amritsar (Punjab) of the year 1964-65, the caste of the grand father of the respondent no. 5 is mentioned as "Nat", therefore, the respondent no. 5 belongs to "Nat" caste.

13. The respondent no. 1 to 4 filed their return and supported the order passed by the High Power Caste Scrutiny Committee. It is submitted that the petitioner cannot re-agitate the issue of "Keer" certificate, as the said aspect has attained finality because the earlier "OBC" Caste Certificate issued in favor of respondent no. 5 was cancelled. The citizen of India cannot be rendered casteless and the "OBC" certificate was cancelled only on the ground that the respondent no. 5 belongs to "Nat". The Scrutiny Committee has upheld the certificate after recording the statements of concerning stakeholders. The Vigilance Officer has collected sufficient material to uphold the Scheduled Caste certificate issued in favor of the respondent no. 5.

14. The respondent no. 5 also filed his return and pleaded interalia that the present petition has been filed by suppressing the material facts. The Petitioner has already filed E.P. No. 8/2019, in which same relief has been claimed therefore, for the same relief, two simultaneous/parallel

proceedings are not maintainable. The petitioner is not an aggrieved person and has filed the present petition in the capacity of a busy body. The petition has been filed by a contesting Party, which has already lost the election. The High Court, in exercise of Power under Article 226 of Constitution of India cannot sit as an Appellate Authority. Although the High Power Caste Scrutiny Committee has jurisdiction to assess the evidence but the High Court can interfere only where the findings of facts are either found to be based on no evidence or they are perverse. The High Court has no authority to either issue or cancel the Caste Certificate. The Petitioner appears to be a confused person. The challenge to the Caste Certificate issued in favor of the respondent no.5 is primarily only on the ground that the respondent no. 5 is the resident of Punjab and having migrated from Punjab, he can not be treated as person of Scheduled Caste. If a particular caste is also notified as Scheduled Caste in the subsequent State, then the person who has migrated can also be issued the Caste Certificate by the subsequent State. Unless and until the decision of the High Power Caste Scrutiny Committee dated 11-11-2004 (by which the OBC certificate of the respondent no. 5 was cancelled) is set aside, the petitioner cannot take advantage of any pleading in respect of "OBC" certificate. The High Power Caste Scrutiny Committee has considered the matter afresh after remand by this Court and has given a specific finding that the respondent no. 5 belongs to "Nat" Caste. Every opportunity was granted to the petitioner to cross examine the witnesses.

15. The Petitioner filed his rejoinder to the return filed by the respondents no. 1 to 4 and claimed that it is incorrect to say that while

canceling the “OBC” Caste Certificate, any findings was ever given by the High Power Caste Scrutiny Committee that the respondent no. 5 belongs to “Nat” Caste. Further, the respondent no. 5 has taken advantage of different castes at different point of time as per his convenience. “Nat” and “Bazigar” are two different castes in State of Punjab which is evident from The Constitution (Scheduled Castes) Order,1950 in which Caste Bazigar is at Sr. No. 6 whereas Nat is at Sr. No. 22 issued for Punjab. The High Power Caste Scrutiny Committee had wrongly discarded the earlier report of Vigilance Officer, and illegally called a fresh report. The respondent no. 5 had contested the election for the post of President, Municipal Council, Ashok Nagar on the Caste Certificate of “OBC” and was elected and completed his tenure as an “OBC” candidate. The respondent no. 5 has admitted that his forefathers had migrated from Punjab. The High Power Caste Scrutiny Committee has illegally framed 10 questions and not decided the matter as directed by this Court. In all the documents issued by the State of M.P., the respondent no. 5 has been shown to be belonging to Sikh Community, and it is nowhere mentioned that he belongs to “Nat”. There is nothing on record to show that the forefather of the respondent no. 5 were settled by the Maharaja Gwalior. None of the relative of respondent no. 5 is holding the caste certificate of “Nat”.

16. The petitioner has also filed his rejoinder to the return filed by the respondent no. 5. It was disputed by the Petitioner, that the High Court cannot review the decision of the High Power Caste Scrutiny Committee. It is the duty of the High Court to keep the functionaries of the State within their limits and if any unconstitutional decision is taken by them,

then it is the duty of the High Court to quash the said order. In the year 1999, the respondent no. 5 had obtained the caste certificate of "Nat" caste, but thereafter, he obtained the certificate of "OBC" category by claiming himself to be belonging to "Keer" caste. Why the respondent no. 5 obtained fresh caste certificate of "Nat" on 6-11-2008, has not been explained by him. The report based on documents of Punjab is incorrect.

17. Challenging the Caste Certificate of "Nat" i.e., Scheduled Caste Category, it is submitted by the Counsel for the Petitioner, that it is well established principle of law that a caste certificate issued by one State is not valid for the another state. The authorities of the State of M.P. cannot issue the Caste Certificate, only on the ground that in State of Punjab, the forefather of the respondent no. 5 were belonging to Scheduled Caste. The Authorities must have considered that whether the respondent no. 5 is entitled for issuance of Caste Certificate on the basis of guidelines issued by the State of Madhya Pradesh in this behalf or not? There is no finding by the High Power Caste Scrutiny Committee that the respondent no. 5 or his father were the members of Scheduled Caste or not. Earlier, the respondent no. 5 had obtained the caste certificate of "Keer" Caste which is "OBC" and the later on, he started claiming himself to be "Nat" and the High Power Caste Scrutiny Committee did not consider as to how, the respondent no. 5 became "Nat" from "Keer" caste. In none of the documents of State of M.P., the respondent no. 5 has been mentioned as a member of "Nat" community. Further the High Power Caste Scrutiny Committee has no power to review its own order therefore, after setting aside the Caste Certificate of "Nat" community, should not have upheld the same. To buttress his contentions, the Counsel for the

Petitioner has relied upon the judgment passed by Supreme Court in the case of **Bir Singh Vs. Delhi Jal Board** reported in **(2018) 10 SCC 312, S.K. Hamid S.K. Hanif Vs. Salim Beg Yusuf Beg** reported in **(2018) 13 SCC 292, Marri Chandra Shekhar Rao Vs. Seth G.S. Medical College** reported in **(1990) 3 SCC 130, Bhaddar Ram Vs. Jassa Ram** reported in **(2022) 4 SCC 259, Dayaram Vs. Sudhir Batham** reported in **(2012) 1 SCC 333, Madhuri Patil Vs. Add. Commissioner, Tribal Development** reported in **(1994) 6 SCC 241, State of Maharashtra Vs. Milind** reported in **(2001) 1 SCC 4,** and Judgment passed by this Court in the case of **Hansraj Singh and others Vs. State of M.P. and others** reported in **2013(1) MPLJ 370** and in the case of **Miss Dheeraj Batham and others Vs. State of MP Public Service Commission and others** decided on **14-2-2019** in **W.P. No. 754 of 2006(s).**

18. Per contra, it is submitted by the Counsel for the respondents no. 1 to 4 that as per the evidence which has come on record, the forefather of respondent no. 5 had migrated from Punjab about 90-100 years back. The caste of grand father of the respondent no. 5 was mentioned as "Nat" in the Jamabandi (Khasra) of the year 1964-65 of village Khara, Tahsil Tarn Taran, Distt. Punjab and accordingly, it has been that the respondent no. 5 belongs to "Nat" Caste.

19. The Counsel for the respondent no. 5 has made the submissions on the basis of his defence taken by him in his return. However, during the course of arguments, **it was admitted by the Counsel for the respondent no. 5, that it was incorrect on the part of the High Power Caste Scrutiny Committee to rely upon any of the document of Punjab State and should have decided on the basis of evidence as to**

whether, the respondent no. 5 fulfills all the requirements to claim the certificate of "Nat" Caste in the State of Madhya Pradesh or not? It was further submitted that neither in the complaint, the complainant challenged the Caste Certificate on the ground that respondent no. 5 doesnot belong to "Nat" caste in State of M.P. and even the High Power Caste Scrutiny Committee did not conduct the enquiry in accordance with law. It is submitted that now the respondent no. 5 cannot be taken by surprise by this Court by asking for material to show that the respondent no. 5 was belonging to "Nat" Caste as prescribed in State of M.P. It is further submitted that the Petitioner has no *locus standi* to challenge the decision of High Power Caste Scrutiny Committee. Further, this Court cannot interfere with the findings of facts recorded by High Power Caste Scrutiny Committee. To buttress his contentions, the Counsel for the respondent no.5 has relied upon the judgment passed by the Supreme Court in the case of **Kudip Nayar Vs. Union of India** reported in **(2006) 7 SCC 1, Union of India Vs. Dudh Nath Prasad** reported in **(2000) 2 SCC 20** and by a co-ordinate Bench of this Court in the case of **Sarvesh Patel Vs. State of M.P. and others** reported in **2012 (2) MPLJ 324.**

20. Heard the learned Counsel for the parties.

21. Considered the submissions made by the Counsels for the parties and their respective pleadings.

Whether Petitioner has *Locus Standi* to challenge the Caste Certificate issued to respondent no. 5 ?

22. The petitioner had contested the election for the post of MLA from Ashok Nagar constituency no. 32 and the respondent no. 5 had also

contested the election and respondent no. 5 was declared elected. Therefore, it cannot be said that the Petitioner is not an aggrieved person, because the Petitioner belongs to Scheduled Caste and if he succeeds in establishing that respondent no. 5 doesnot belong to Scheduled Caste, then he would succeed in establishing that respondent no. 5 had illegally contested the election. Furthermore, the Petitioner has also filed an Election Petition No. 8/2019 which is also pending. Thus, by no stretch of imagination, it can be said that the Petitioner has no *Locus Standi* to challenge the Certificate of Scheduled Caste issued in favor of respondent no. 5.

23. Further more, it appears that co-ordinate Bench of this Court in the case of **Sarvesh Patel (Supra)** has not considered the basic principle behind issuance of Caste Certificate. A holder of Caste Certificate will be entitled for various benefits of Govt. Schemes, Public Employment, etc. Further, the State has issued circular dated 8-9-1997, regarding procedure to be adopted by the High Power Caste Scrutiny Committee according to which a public information is to be given by beat of drums in the village and colonies so that any body can object to the Caste Certificate. Further more, the Supreme Court in the case of **Madhuri Patil (Supra**) has held that " A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief

reasons in support thereof." However, in the case of **Sarvesh Patel (Supra),** the co-ordinate Bench has not taken note of judgment passed in the case of **Madhuri Patil (Supra)** as well as guidelines issued by the State Govt. **Thus, it is clear that judgment passed in the case of Sarvesh Patel (Supra) is per-incurriam and has been passed in ignorance of above mentioned law**. **Thus, it is held to be not a good law.**

24. Accordingly, the objection raised by the Counsel for the respondent no. 5 regarding *Locus Standi* of petitioner to challenge the Caste Certificate of respondent no. 5 is hereby **rejected** and it is held that the petitioner has *Locus Standi* to challenge the Caste Certificate of respondent no. 5.

Whether this Court has no jurisdiction of judicial review of decision of High Power Caste Scrutiny Committee?

25. The Supreme Court in the case of **Madhuri Patil (Supra)** has held that the decision of the High Power Caste Scrutiny Committee can be challenged under Article 226 of the Constitution of India. Further more, if a person obtains a false Caste Certificate, then it would amount to fraud on the Constitution. The Supreme Court in the case of **Punit Rai v. Dinesh Chaudhary,** reported in **(2003) 8 SCC 204** has held as under :

> **35.** The question as to whether a person belongs to a particular caste or not has to be determined by the statutory authorities specified therefor.
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> * * * *
>
> **39.** A person in fact not belonging to the Scheduled Caste, if claims himself to be a member thereof by procuring a bogus caste certificate, would be committing fraud on the Constitution. No court of law can encourage commission of such fraud.

26. A Division Bench of Bombay High Court in the case of **Raju Shamrao Mankar Vs. State of Maharashtra and others** decided on **8-6-2021** in **W.P. No. 2675 of 2019** has held as under :

> 137. For all the aforesaid reasons, we do not find merits in the submission of learned senior counsel for respondent no.3 that while exercising writ jurisdiction this Court could not go into merits and demerits of bonafide certificate of the grandfather of respondent no.3. This Court has to see whether the Scrutiny Committee considered the relevant material placed before it in proper perspective or has not applied its mind to relevant facts which have led the committee ultimately record the finding.

27. The Supreme Court in the case of **Madhuri Patil (Supra)** has held as under :

> **15.** The question then is whether the approach adopted by the High Court in not elaborately considering the case is vitiated by an error of law. High Court is not a court of appeal to appreciate the evidence. The Committee which is empowered to evaluate the evidence placed before it when records a finding of fact, it ought to prevail unless found vitiated by judicial review of any High Court subject to limitations of interference with findings of fact. The Committee when considers all the material facts and records a finding, though another view, as a court of appeal may be possible, it is not a ground to reverse the findings. The court has to see whether the Committee considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee ultimately record the finding. Each case must be considered in the backdrop of its own facts.

28. Thus, where the findings recorded by scrutiny committee are perverse, this Court can always set aside such findings.

29. Therefore, the contention of the Counsel for the respondent no. 5 that this Court doesnot have power of Judicial Review is **rejected** as misconceived.

Whether this petition is maintainable in the light of pendency of Election Petition?

30. It is the stand of the respondent no.5 that since, E.P. No. 8/2019 filed by the Petitioner is already pending, therefore, this Petition is not maintainable for the similar relief.

31. Considered the submissions made by the Counsel for the respondent no.5.

32. The Supreme Court in the case of **Madhuri Patil (Supra)** has held that the decision of High Power Caste Scrutiny Committee can only be challenged under Article 226 of the Constitution of India.

33. Furthermore, the respondent no.5 had also taken an objection in E.P. No. 8/2019, that the decision of High Power Caste Scrutiny Committee can be challenged under Article 226 of Constitution of India and not in Election Petition and accordingly, this Court by order dated 5-9-2022 passed in E.P. No. 8/2019 had held that the present petition shall also be taken up for analogous hearing.

34. Thus, not only the objection with regard to maintainability of this petition is misconceived but at the same time, the respondent no.5 is some how trying very hard to avoid any adjudication on the decision of the High Power Caste Scrutiny Committee.

35. Thus, the objection with regard to maintainability of this petition is also rejected and it is held that this petition against the order/decision of High Power Caste Scrutiny Committee is maintainable.

When the forefathers of respondent no. 5, migrated from Punjab to State of M.P. and whether forefathers of respondent no. 5 accepted Sikh Religion after leaving their original religion/caste?

36. The Vigilance Officer (S.D.O.(P) Ashok Nagar has recorded the statement of Gurmej Singh son of Boodh Singh, Caste Sikh (Sandhu), aged about 85 years, resident of village Savan, P.S. Kachaner, Distt. Ashoknagar. His statement is as under :

ने बयान मे बताया कि मै उक्त पते पर रहता हूं। आज से करीबन 90–100 साल पहले हमारा परिवार पंजाब से अशोकनगर आया था। महाराज सिंधिया का राज था। मेरे ताउजी सूबेदार सिंह एवं पिताजी बूढ सिंह ग्राम सिंधाडा अमृतसर के पास से ग्राम सिंधाडा मे आये थे ।ग्राम सिंधाडा हमारे पिताजी ने कुछ जमीन खरीदी तथा कुछ जमीन हमे राजा ने दी थी ।मेरा एवं मेरे भाई सेवा सिंह का जन्म ग्राम सिंधाडा मे ही हुआ था। मै सन् 1983 मे ग्राम सावन मे अपने परिवार सहित रह रहा हूं। छोटा भाई सेवा सिंह अपने परिवार के साथ ग्राम सिंधाडा मे रहते है। मेरे यहां चार लडके एवं पांच लडकियां है। बडा लडका स्व राजपाल सिंह, जजपाल सिंह, शीतल सिंह एवं हरपाल सिह है। हमारे पूर्वज ग्राम खारा पिण्ड अमृतसर (पंजाब) के रहने वाले है। हमारी जाति नट बाजीगर है।अमृत चखने के बाद गुरद्वारे से संधु उपनाम मिला है। मेरे दादाजी स्व श्री नत्था सिंह ने गुरूद्वारे मे अमृत चखा था गुरूद्वारे से ही हमारे परिवार को संधु उपनाम मिला था। हमारे परिवार मे कोई भी व्यक्ति सरकारी नौकरी मे नही है। दिनांक 10.8.1950 को हमारा परिवार ग्राम सिंधाडा तहसील मुगावली जिला गना मे निवास करता था। मै कभी किसी स्कूल मे नही पढा हूं।

बयान पढवाकर सुनाया जो बोला वही लिखा है। बाद सही होने पर दस्तखत किये।

37. Thus, according to the father of the respondent no. 5, his family migrated from Punjab about 90-100 years back, and even he (Gurmej

Singh, father of respondent no.5) was born in State of Madhya Pradesh. Gurmej Singh has not stated about the profession of his forefathers. He has not stated that his forefathers were in the business of showing drama (Nat) or were Bazigar. On the contrary, he claimed that since, his grand father had taken wholly water (Amrit) from Gurudwara, therefore, the surname Sandhu was given by Gurudwara. He further stated that earlier he was residing in village Singhada, Tahsil Mungawali, Distt. Guna and in the year 1983, he shifted to village Savan, P.S. Kachaner, Distt. Ashoknagar.

38. A similar statement was made by Sewa Singh, brother of Gurmej Singh. Even Sewa Singh has not stated about the profession of his forefathers.

39. It is the claim of Gurmej Singh and Sewa Singh, that since, their grand father had taken wholly water (अमृत चखना) from Gurudwara, therefore, surname Sandhu was given, but nothing has been placed on record to show that after taking wholly water, there is any custom of giving any new surname to the disciple. Thus, the explanation given by Gurmej Singh and Sewa Singh in this regard cannot be accepted. Further, the respondent no. 5 in his statement has claimed that only after taking wholly water from Gurudwara, his predecessor had accepted Sikh religion (पंजाब मे हमारे पूर्वजो ने गुरूद्वारे मे अमृत छक्कर (चखकर) सिक्ख पंथ मे शामिल हो गये थे।), where as it is not the claim of Gurmej Singh and Sewa Singh. Thus, it is clear that it is the case of the respondent no. 5, that his predecessors had taken wholly water from Gurudwara, and thereafter, they adopted Sikh religion, thereby leaving their original religion/caste. However, the respondent no. 5 has not clarified about the original

religion of his forefathers. At the cost of repetition, it is once again clarified that Gurmej Singh and Sewa Singh have not claimed that originally their forefathers did not belong to Sikh Religion.

40. Thus, it is clear that the forefathers of the respondent no. 5 had migrated from Punjab about 90-100 years back. The statements of Gurmej Singh and Sewa Singh were recorded on 3-7-2019 by Vigilance Officer. Thus, it is clear that the forefathers of the respondent no. 5 must have migrated some times inbetween the year 1919-1929. Further more, Gurmej Singh is aged about 85 years, whereas Sewa Singh is aged about 80 years, and both of them have claimed that they were born in village Singhada, i.e., after migration to State of M.P.

41. It is further clarified that the respondent no. 5 did not examine his father Gurmej Singh and uncle Sewa Singh before the High Power Caste Scrutiny Committee. Thus, it appears that according to respondent no. 5 himself, his forefathers had migrated to State of M.P., about 90-100 years back i.e., around 1919-1929 and had accepted Sikh Religion before their migration to State of M.P. Thus, it is clear that the forefathers of the respondent no. 5 had already migrated much prior to 1950 i.e., formation of State of Madhya Pradesh and issuance of The Constitution (Scheduled Castes) Order, 1950 and much prior to their migration to State of M.P., his forefathers had accepted Sikh Religion after leaving their original religion/caste,

Whether the Caste Certificate issued by State of Punjab is valid in State of Madhya Pradesh?

42. Now, the next question for consideration is that whether the Caste Certificate issued by State of Punjab is valid in State of Madhya Pradesh

or not?

43. The High Power Caste Scrutiny Committee by its impugned order dated 18-12-2019 has given the following decision :

निर्णय

तथ्यों एवं निष्कर्षो के आधार पर समिति यह निर्णय लेती है कि –

1. पुलिस अधीक्षक अशोकनगर द्वारा उनके जांच प्रतिवेदन मे श्री जजपाल सिंह जज्जी आत्मज श्री गुरमेज सिंह के अनुसूचित जाति प्रमाण पत्र के संबंध मे स्पष्ट अभिमत नही दिया गया है।

2. पुलिस अधीक्षक अशोकनगर की जांच मे पटवारी हल्का 28 तहसील पिपरई जिला अशोकनगर के खसरा वर्ष 1950 भू–अभिलेख मे अनावेदक के दादा स्वर्गीय बूढसिंह का नाम दर्ज होना पाया गया का उल्लेख किया है।

3. अनावेदक के पूर्वज पंजाब के जिला तरनतारन ग्राम खारा के निवासी तहसील पट्टी पटवारी हल्का नं 302 मे श्री बूढसिंह पिता नत्था सिंह की जाति नट अंकित हैं।

4. अनावेदक के दादा स्वर्गीय श्री बूढसिंह का नाम अशोकनगर के भू–अभिलेख वर्ष 1950 के स्थिति मे दर्ज होना एवं पंजाब के जिला तरन तारन ग्राम खारा के निवासी तहसील पट्टी पटवारी हल्का नं 302 मे जाति नट अंकित होने से अनावेदक को जारी कार्यालय अनुविभागीय अधिकारी अनुभाग अशोकनगर जिला अशोकनगर से जाति प्रमाण पत्र क्रमांक 31/बी–121/08–09 दिनांक 06.11.2008 नट अनुसूचित जाति का जाति प्रमाण पत्र समिति वैध मानती है।

44. Thus, it is clear that the High Power Caste Scrutiny Committee has upheld the Caste Certificate of respondent no. 5 only on the basis of one Jamabandi (Khasra) of the year 1964-65 of village Khara, Tahsil Tarn

Taran, Distt. Amritsar.

45. It is not out of place to mention here that the respondent no. 5 has not filed any Caste Certificate issued by any authority of State of Punjab in favor of his forefathers. From the record of High Power Caste Scrutiny Committee, it is clear that the respondent no. 5 had obtained a certificate from Sub-Divisional Officer, Amritsar on 3-5-1999, to the effect that the respondent no. 5 belongs to "Keer" caste which is a Scheduled Caste. In this Caste Certificate, the address of the respondent no. 5 is mentioned as A-614, Ranjit Avenue, Amritsar. Whereas it is not the case of the respondent no. 5 that he had ever resided in Amritsar. On the contrary, it is the case of the respondent no. 5 that he was born in the State of Madhya Pradesh and also completed his schooling from State of Madhya Pradesh and also did agricultural activities in State of Madhya Pradesh and thereafter, is contesting elections for different offices in State of Madhya Pradesh i.e., Ashok Nagar. Thus, it is clear that the respondent no. 5 had fraudulently obtained one caste certificate from S.D.O. Amritsar.

46. The Supreme Court in the case of **Bir Singh v. Delhi Jal Board, (2018) 10 SCC 312** has held as under:

> 34. Unhesitatingly, therefore, it can be said that a person belonging to a Scheduled Caste in one State cannot be deemed to be a Scheduled Caste person in relation to any other State to which he migrates for the purpose of employment or education. The expressions "in relation to that State or Union Territory" and "for the purpose of this Constitution" used in Articles 341 and 342 of the Constitution of India would mean that the benefits of reservation provided for by the Constitution would stand confined to the geographical territories of a State/Union Territory in respect of which the lists of Scheduled Castes/Scheduled Tribes have been notified by the Presidential

Orders issued from time to time. A person notified as a Scheduled Caste in State 'A' cannot claim the same status in another State on the basis that he is declared as a Scheduled Caste in State 'A'.

* * * *

36. The upshot of the aforesaid discussion would lead us to the conclusion that the Presidential Orders issued under Article 341 in regard to Scheduled Castes and under Article 342 in regard to Scheduled Tribes cannot be varied or altered by any authority including the Court. It is Parliament alone which has been vested with the power to so act, that too, by laws made. Scheduled Castes and Scheduled Tribes thus specified in relation to a State or a Union Territory does not carry the same status in another State or Union Territory. Any expansion/deletion of the list of Scheduled Castes/Scheduled Tribes by any authority except Parliament would be against the constitutional mandate under Articles 341 and 342 of the Constitution of India.

* * * *

My conclusion for agreeing with the view taken in paras 34 and 36

105. It is now settled law that a person belonging to Scheduled Caste/Scheduled Tribe in State 'A' cannot claim the same status in another State 'B' on the ground that he is declared as a Scheduled Caste/Scheduled Tribe in State 'A'. The expressions "in relation to that State or Union Territory" and "for the purpose of this Constitution" used in Articles 341 and 342 of the Constitution of India are to be meaningfully interpreted. A given caste or tribe can be a Scheduled Caste or a Scheduled Tribe in relation to that State or Union Territory for which it is specified. Thus, the person notified as a Scheduled Caste in State 'A' cannot claim the same status in another State on the basis that he was declared Scheduled Caste in State 'A'. Article 16(4) has to yield to the constitutional mandate of Articles 341 and 342.

47. The Supreme Court in the case of **Marri Chandra Shekhar Rao v. Seth G.S. Medical College, (1990) 3 SCC 130** has held as under :

20. Having regard, however, to the purpose and the scheme of the Constitution which would be just and fair to the Scheduled Castes and Scheduled Tribes, not only of one State of origin but other states also where the Scheduled Castes or Tribes migrate in consonance with the rights of other castes or community, rights should be harmoniously balanced. Reservations should and must be adopted to advance the prospects of weaker sections of society, but while doing so care should be taken not to exclude the legitimate expectations of the other segments of the community.

21. We have reached the aforesaid conclusion on the interpretation of the relevant provisions. In this connection, it may not be inappropriate to refer to the views of Dr B.R. Ambedkar as to the prospects of the problem that might arise, who stated in the Constituent Assembly Debates in reply to the question which was raised by Mr Jai Pal Singh which are to the following effect:

> "He asked me another question and it was this. Supposing a member of a Scheduled Tribe living in a tribal area migrates to another part of the territory of India, which is outside both the scheduled area and the tribal area, will he be able to claim from the local government, within whose jurisdiction he may be residing, the same privileges which he would be entitled to when he is residing within the scheduled area or within the tribal area? It is a difficult question for me to answer. If that matter is agitated in quarters where a decision on a matter like this would lie, we would certainly be able to give some answer to the question in the form of some clause in his Constitution. But, so far as the present Constitution stands, a member of a Scheduled Tribe going outside the Scheduled area or tribal area would certainly not be entitled to carry with him the privileges that he is entitled to when he is residing in a scheduled area or a tribal area. So far as I can see, it will be practicably impossible to enforce the provisions that apply to tribal areas or scheduled areas, in areas other than those which are covered by them...."

48. The Supreme Court in the case of **Ranjana Kumari Vs. State of**

Uttarakhand by order dated **1-11-2018** passed in **Civil Appeal No. 8425 of 2013** has held as under :

> **2.** The appellant who belongs to Valmiki caste (Scheduled Caste) of the State of Punjab married a person belonging to the Valmiki caste of Uttarakhand and migrated to that State. In the State of Uttarakhand under the Presidential Order 'Valmiki' is also recognized as a notified Scheduled Caste. The State of Uttarakhand issued a certificate to the appellant.
>
> **3.** The appellant contended before the High Court that she was a Scheduled Caste of the State of Uttarakhand. The High Court having rejected the claim, the appellant is in appeal before us.
>
> **4.** Two Constitution Bench judgments of this Court in Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College & Ors. and Action Committee on Issue of Caste Certificate to Scheduled Castes & Scheduled Tribes in the State of Maharashtra & Anr. vs. Union of India & Anr. have taken the view that merely because in the migrant State the same caste is recognized as Scheduled Caste, the migrant cannot be recognized as Scheduled Caste of the migrant State. The issuance of a caste certificate by the State of Uttarakhand, as in the present case, cannot dilute the rigours of the Constitution Bench Judgments in Marri Chandra Shekhar Rao (supra) and Action Committee (supra).

49. The Supreme Court in the case of **Action Committee on Issue of Caste Certificate to SCs/STs v. Union of India,** reported in **(1994) 5 SCC 244** has held as under :

> **3.** On a plain reading of clause (1) of Articles 341 and 342 it is manifest that the power of the President is limited to specifying the castes or tribes which shall, for the purposes of the Constitution, be deemed to be Scheduled Castes or Scheduled Tribes in relation to a State or a Union Territory, as the case may be. Once a notification is issued under clause (1) of Articles 341 and 342 of the Constitution, Parliament can by law include in or exclude from the list of Scheduled Castes or Scheduled Tribes, specified in the notification, any caste or

tribe but save for that limited purpose the notification issued under clause (1), shall not be varied by any subsequent notification. What is important to notice is that the castes or tribes have to be specified in relation to a given State or Union Territory. That means a given caste or tribe can be a Scheduled Caste or a Scheduled Tribe in relation to the State or Union Territory for which it is specified. These are the relevant provisions with which we shall be concerned while dealing with the grievance made in this petition.

* * * *

16. We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Schedule Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that caste, tribe or class in that State which may be totally non est in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste or tribe bearing the same nomenclature is specified in two States but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State "for the purposes of this Constitution". This is an aspect which has to be kept in mind and which was very much in the minds of the Constitution-makers as is evident from the choice of language of Articles 341 and 342 of the Constitution.

50. Thus, it is clear that the respondent no. 5 cannot take advantage of any caste certificate/revenue entry issued by Punjab, if any.

51. Further more, the respondent no. 5 did not file the certified copy of the Jamabandi (Khasra) of the year 1964-65 of village Khara, Tahsil Tarn Taran, Distt. Amritsar. The respondents no. 1 to 4 have filed a copy of

Jamabandi (Khasra) of the year 1964-65. The said document appears to be a document attested by Patwari of said Halka. It is not the case of the respondent no. 5 that Patwari was competent to attest a document. He is neither Class I nor Class II Gazetted Officer. Why the certified copy of the said document was not obtained has not been clarified by the respondent no. 5. Further, the Counsel for the respondent no. 5 could not point out from the Jamabandi (Khasra) of village Khara, Tahsil Tarn Taran, Distt. Amritsar that the caste of Boodh Singh was mentioned as Nat.

52. Further, the respondents no. 1 to 4 have provided the record of the Committee which is in five parts whereas the file of Superintendent of Police, Ashok Nagar is in sixth part.

53. The Jamabandi of 1964-65 of village Khara, Tahsil Tarn Taran, Distt. Amritsar is in envelop No.3. Surprisingly, none of the envelops have been pasted with adhesive and only transparent cello tape was affixed. Further, envelop no.3 which contains the Jamabandi of 1964-65 contains multiple transparent cello tapes, which clearly means that it was re-opened after it was originally sealed. Further, on the cover page of file, it is mentioned that it contains page No.s from 563 to 1382, but the entire file contains loose papers which have not been tied by tag or by any other method.

54. Surprisingly, the Jamabandi of 1964 of village Khara, Tahsil Tarn Taran, Distt. Amritsar which is kept in envelop no.3, is not the same copy which has been filed by the State along with its return. The contents are different, the sheet on which said document has been prepared is different, endorsement made by authority is different and it appears that

even the authority which had issued the document forming part of envelop no.3 had prepared it on 15-11-2019, whereas the Jamabandi which has been filed along with the Return was issued on 4-7-2019.

55. Since, this Court is of the considered opinion, that any document issued by Punjab Authority has no relevance in State of M.P., therefore, it is not necessary to dwell upon this issue, but the manner, in which the record has been sent and different copies of Jamabandi of village Khara Tahsil Tarn Taran, Distt. Amritsar of the year 1964-65 creates a doubt on the correctness of the revenue entry. Further more, what was the need of obtaining attested or true copy of the said document? Why the certified copy was not obtained?

56. Further, the respondent no. 5 has not filed any document or Revenue Record, except Jamabandi of year 1964-65 of village Khara, Tahsil Tarn Taran, Distt. Amritsar, to show that his forefathers were having agricultural land in Punjab. In fact, it is the defence of respondent no. 5 that his forefathers had migrated to State of M.P., because the Maharaja of Gwalior State had offered free agricultural land in Gwalior State for agricultural purposes. If the forefathers of the respondent no. 5 were already having agricultural land in Punjab, then what was the need for migrating to State of M.P.?

57. In addition to that, it is the case of the respondent no.5 that his forefathers had already migrated to State of M.P. about 90-100 years back i.e., some times in between 1919-1929. When in the year 1964-65, Boodh Singh was not the resident of Punjab, then how his caste could be recorded in the Revenue Records?

58. It appears from Jamabandi of village Khara, Tahsil Tarn Taran,

Distt. Amritsar which is kept in envelop No. 3 of the record, some mortgage deed was executed by Boodh Singh. When the respondent no. 5 has not filed any document to show that Boodh Singh or his forefathers were having land in State of Punjab, then how a mortgage deed can be executed by Boodh Singh?

59. All the above mentioned aspects have also not been taken into consideration by the High Power Caste Scrutiny Committee.

60. **Further more, the Counsel for the respondent no.5 was right in submitting that the High Power Caste Scrutiny Committee has committed an illegality by relying upon one Revenue Entry Jamabandi (Khasra) of village Khara, Tahsil Tarn Taran, Distt. Amritsar and as per law, should not have relied upon the Jamabandi of the year 1964-65.**

61. **Thus, it is held that after Migration of his forefathers from Punjab, the respondent no. 5 cannot take advantage of any caste which might have been declared as Scheduled Caste in the State of Punjab and the High Power Caste Scrutiny Committee, illegally relied upon the Jamabandi of Village Khara, Tahsil Tarn Taran, Distt. Amritsar for holding that the respondent no.5 belongs to Scheduled Caste in State of M.P. also.**

Whether the Respondent no. 5 can obtain a Caste Certificate from State of Madhya Pradesh?

62. As per the claim of the respondent no.5, his forefathers had migrated to State of Madhya Pradesh about 90-100 years back. The respondent no. 5 cannot take advantage of the social status of his forefathers enjoyed by them in State of Punjab, but that would not

deprive the respondent no. 5 from obtaining a Caste Certificate from State of Madhya Pradesh, provided he succeeds in establishing that his case is covered by Presidential Notification issued for the State of Madhya Pradesh, or in other words, the respondent no. 5 can obtain Caste Certificate from State of Madhya Pradesh, provided he establishes that he belongs to Scheduled Caste as provided in Presidential Notification for State of Madhya Pradesh.

63. As already held by the Supreme Court in the case of **Ranjana Kumari (Supra)** the authorities of migrant State cannot issue a Caste Certificate on the basis of social status of an aspirant enjoyed by him in the State from where he has migrated.

64. It is submitted by the Counsel for the respondent no. 5 that since, the objection was raised with regard to the Caste Certificate of the respondent no. 5 only on the ground that the Social Status of his forefathers in State of Punjab cannot be a ground to issue Caste Certificate, therefore, if this ground is taken up by this Court, then it would amount to taking the respondent no. 5 by surprise, as he did not get any opportunity to establish before the High Power Caste Scrutiny Committee that even after migrating to State of Madhya Pradesh, the respondent no. 5 or his forefathers were in the profession of Bazigari or playing drama or walking on ropes. **He further stated that even High Power Caste Scrutiny Committee did not conduct the enquiry in a proper manner.**

65. Considered the submissions made by the Counsel for the respondent no. 5.

66. The Supreme Court in the case of **Madhuri Patil (Supra)** has

elaborately laid down the guidelines for testing the correctness of Caste Certificate. Therefore, whenever the matter is placed before the scrutiny Committee with regard to the correctness of a Caste Certificate, then Scrutiny Committee has to conduct an enquiry in the light of directions given in the case of **Madhuri Patil (Supra)** and the guidelines issued by the State Government in this regard. Thus, the respondent no. 1 was well aware of the scope of enquiry by the scrutiny Committee. Furthermore, the Caste Certificate in question was earlier set aside by the scrutiny Committee and the Scrutiny Committee was reconsidering the matter only in the light of remand order passed by this Court. Thus, it is incorrect to say on the part of the respondent no.5 that he was not aware of the scope of scrutiny before the scrutiny Committee.

67. Further, even the High Power Caste Scrutiny Committee has come to a conclusion that the Superintendent of Police Ashok Nagar has not given any specific finding. Thus, the scrutiny Committee could not give any finding with regard to the fact as to whether the respondent no. 5 has proved that after migration, his forefathers were enjoying the status of Scheduled Caste in the State of M.P. also or not. Since, the respondent no.5 has not challenged that part of the order of the scrutiny Committee, therefore, it is not necessary for this Court to dwell upon the question as to whether the respondent no.5 has proved that his forefathers belonged to Scheduled Caste in the State of M.P. also, but in order to put the controversy at rest, this Court thinks it proper to consider the material available on record.

68. It is submitted by the Counsel for the State that a Caste Certificate is to be issued as per the guidelines issued by the GAD and relied upon

circular dated 13-1-2014. The General Administration Department, State of Madhya Pradesh has issued circular dated F7-42/2012/Aa.Pra./ One dated 13-1-2014 with regard to issuance of Caste Certificate. The relevant portion of the said circular reads as under :

विषय :– अनुसूचित जाति, अनुसूचित जनजाति, अन्य पिछडा वर्ग तथा विमुक्त, धुमक्कड एवं अर्द्ध धुमक्कड जातियो के जाति प्रमाण पत्र जारी करने के संबंध मे

संदर्भ :– 1. सा.प्र.वि. का परिपत्र क एफ 7–2/96/आ.प्र./ एक दिनांक 1.8.1996

2. सा.प्र.वि. का परिपत्र क एफ 7–2/96/आ.प्र./ एक दिनांक 12.3.1997

3. सा.प्र.वि. का परिपत्र क एफ 7–13/04/आ.प्र./ एक दिनांक 11.7.2005

4. लोक सेवा प्रबंधन विभाग की अधिसूचना कमांक एफ 2–13/2012/61/लोसेप्र/पीएसजी–19 दिनांक 10.4.2013

* * * *

4. <u>पात्रता की आवश्यक शर्तें</u>

4.1 भारत सरकार की अधिसूचना संविधान (अनुसूचित जातियां) आदेश, 1950 दिनांक 10 अगस्त1950 एवं संविधान (अनुसूचित जनजातियां) आदेश 1950 दिनांक 06 सितम्बर 1950 द्वारा मध्यप्रदेश राज्य के लिए धोषित अनुसूचित जाति तथा अनुसूचित जनजाति की सूची (समय–समय पर किये गये संशोधन सहित) मे आवेदक की जाति संबंधित प्रवर्ग मे अधिसूचित हो।

4.2 आवेदक / उसका परिवार कंडिका 4.1 मे उल्लेखित जातियों की अधिसूचना जारी होने की तिथि अथवा उसके पूर्व से मध्यप्रदेश राज्य मे निवास करता हो।

4.3 अन्य पिछडा वर्गों के लिए आदिम जाति, हरिजन एवं पिछडा वर्ग कल्याण विभाग की अधिसूचना कमांक एफ 8–5–पच्चीस–4–84, दिनांक 26 दिसम्बर 1984 (समय समय पर किये गये संशोधन सहित) मे आवेदक की जाति शामिल हो।

4.4 अन्य पिछडा वर्ग के संदर्भ मे आवेदक का परिवार कीमीलेयर की श्रेणी मे नही आता हो।

4.5 विमुक्त, धुमक्कड एवं अर्ध धुमक्कड जातियों की शासन द्वारा जारी सूची मे आवेदक की जाति शामिल हो।

5. <u>निर्धारित प्रारूप मे आवेदन के साथ संलग्न किये जाने</u>

<u>वाले आवश्यक दस्तावेज</u>

5.1 आवेदक को उपरोक्त कंडिका 3 मे उल्लेखित निर्धारित प्रारूप मे आवेदन पत्र के साथ आवेदक के पास उपलब्ध ऐसे दस्तावेज संलग्न करना होगे जिससे –

अनुसूचित जाति / अनुसूचित जनजाति के मामले मे उनकी जाति तथा आवेदक /उसका परिवार की वर्ष 1950 या उससे पूर्व म.प्र. मे निवास की पुष्टि होती हो।

अथवा

अन्य पिछडा वर्गों के मामले मे उसकी जाति तथा वर्ष 1984 की स्थिति मे या उसके पूर्व म.प्र. मे निवास की पुष्टि होती हो।

5.2 मध्य प्रदेश मे निवास एवं जाति की पुष्टि करने के लिये निम्नांकित दस्तावेज संलग्न किये जा सकते है :–

(i) जाति की पुष्टि हेतु –

परिवार के सदस्य (दादा /दादी/परदादा/पिता/माता/चाचा /भाई/बहन) के नाम दर्ज अचल संपत्ति का रिकार्ड (भूमि / भूख्ण्ड /मकान की रजिस्ट्री या अन्य कोई राजस्व रिकार्ड आदि) की छायाप्रति जिसमे जाति का उल्लेख हो।

अथवा

परिवार के किसी सदस्य (पिता/चाचा/भाई/बहन या दादा) को वर्ष 1996 के अनुविभागीय अधिकारी (राजस्व) द्वारा जारी जाति प्रमाण पत्र।

(ii) परिवार की वर्ष 1950 मे निवास की पुष्टि हेतु दस्तावेज (जो उपलब्ध हो)

शिक्षा/शासकीय सेवा / मतदाता परिचय पत्र / परिवार के सदस्य (दादा /दादी/परदादा/पिता/माता/चाचा /भाई/बहन) के नाम दर्ज अचल सम्पति का रिकार्ड (भूमि/ भूख्ण्ड /मकान की रजिस्ट्री या अन्य कोई राजस्व रिकार्ड आदि) की छाया प्रति।

(iii) स्वयं आवेदक के शैक्षणिक योग्यता संबंधी प्रमाण पत्रों की छायाप्रति।

(iv) जाति एवं निवास की तिथि के संबंध मे संलग्न धोषणा पत्र।

5.3 आवेदक जिनके पास वर्ष 1950 (अन्य पिछडा वर्गो के लिये 1984) मे मध्यप्रदेश मे निवास संबंधी दस्तावेज नही है:–

ऐसे आवेदको से जिनके पास वर्ष 1950 (अन्य पिछडा वर्गो के लिये 1984) या उससे पहले से मध्यप्रदेश का निवासी संबंधी लिखित रिकार्ड नही है, तो उसे यह लिखित रिकार्ड प्रस्तुत करने हेतु विवश न किया जाए। राजस्व अधिकारियों को स्वयं मौके पर जाकर / कैम्प मे जांच कर आवेदन पत्र मे उल्लेखित जानकारी की पुष्टि करना चाहिये।

इसके लिए आवेदक /संबंधित सरपंच /पार्षद / उस ग्राम मोहल्ले के सभ्रांत व्यक्तियों से पूछताछ कर उनके बयान दर्ज किये जाना चाहिये और स्वयं की संतुष्टि के बाद स्थाई जाति प्रमाण पत्र जारी करने की अनुशंसा करना चाहिये।

69. Similarly, the State has filed a copy of circular dated 8-9-1997 which provides for the procedure to be adopted by the High Power Caste Scrutiny Committee accordingly to which, after supplying the report of Vigilance Officer, the beneficiary shall be given an opportunity of hearing and in case if he is interested in producing any witness, then he shall be called and full opportunity of hearing as well as to lead evidence would be given. Further more, the Committee shall give public notice by beat of drum in the village/Colony or by any other convenient mode. Any person who is interested to oppose the Caste Certificate shall be given an opportunity to oppose. After giving an opportunity of hearing to the beneficiary, the Committee may conduct such enquiry which may be necessary to adjudicate the claim and objections.

70. However, in the present case, the caste certificate in question was issued in the year 2008, therefore, it is necessary to consider the guidelines which were in force in the year 2008.

71. The General Administration Department, State of M.P. had issued Circular No. F 7-13/2004/Aa.Pr./one dated 11-7-2005 in this regard. The relevant part of the said circular is as under :

1. अनुसूचित जाति, अनुसूचित जनजाति तथा अन्य पिछड़े वर्गों के व्यक्तियों को निम्नांकित कार्यों के लिये जाति प्रमाण पत्र की आवश्यकता होती है:–

(1) **शैक्षणिक सुविधाओं के लिये** – राज्य शासन द्वारा देय शिष्यवृत्ति/छात्रवृत्ति प्राप्त करने, भारत सरकार द्वारा प्रदत्त पोस्ट

मेट्रिक छात्रवृत्ति, तकनीकी पाठ्यक्रमों में प्रवेश/प्रवेश परीक्षाओं में सम्मिलित होने, शिक्षण तथा अन्य शुल्क की छूट और पाठ्य सामग्री प्राप्त करने आदि ।

(2) **शासकीय सेवा तथा अन्य लाभ लेने के लिये** – लोक सेवा एवं पदों में आरक्षण का लाभ, आरक्षित सीटों पर निर्वाचन तथा शासन द्वारा देय अन्य सुविधाओं का लाभ प्राप्त करने आदि।

2. इस विभाग के परिपत्र क्रमांक एफ 7–2/96/आ.प्र./एक, दिनांक 1 अगस्त, 1996 द्वारा अनुसूचित जाति तथा अनुसूचित जनजाति एवं परिपत्र दिनांक 12 मार्च, 1997 द्वारा अन्य पिछड़े वर्गों के व्यक्तियों को जाति प्रमाण पत्र जारी करने संबंधी विस्तृत दिशा निर्देश प्रसारित किये गये हैं। राज्य शासन के ध्यान में लाया गया है कि वर्तमान निर्धारित प्रक्रिया के तहत जाति प्रमाण पत्र प्राप्त करने मे ं कठिनाईयॉ आ रही हैं। उपरोक्त परिपत्रों में निर्धारित नीति के अंतर्गत ही अनुसूचित जाति, अनुसूचित जनजाति तथा अन्य पिछड़े वर्गों के व्यक्तियों को जाति प्रमाण पत्र सुगमता से प्राप्त हो सके, इस दृष्टि से राज्य शासन निम्नानुसार सरलीकृत प्रक्रिया निर्धारित करता है :–

(क) छात्र–छात्राओं के लिये जाति प्रमाण पत्र जारी करने की प्रक्रिया (कक्षा–1 से 8 तक)

क्र0	**चरणबद्ध प्रक्रिया**	अधिकतम निर्धारित तिथि
1	जिला संयोजक/सहायक आयुक्त, आदिम जाति कल्याण विभाग का यह दायित्व होगा कि जाति प्रमाण पत्र के फार्म शिक्षा सत्र प्रारम्भ होने के 15 दिवस के अंदर अपने मण्डल संयोजकों के माध्यम से विकास खण्ड शिक्षा अधिकारी के कार्यालयों में उपलब्ध कराएंगे।	प्रतिवर्ष **15 जुलाई** तक

2	विकास खण्ड शिक्षा अधिकारी के कार्यालय से यह आवेदन पत्र आवश्यकतानुसार स्कूलों के प्राचार्य/प्रधानाध्यापक/अधिकृत शिक्षक को प्रदाय किये जाएंगे।	———
3	प्राचार्य/प्रधानाध्यापक द्वारा प्रतिवर्ष अपने विद्यालय में प्रवेश लेने वाले अनुसूचित जाति/अनुसूचित जनजाति/ अन्य पिछड़ा वर्ग के छात्र–छात्राओं को जाति प्रमाण पत्र के आवेदन पत्र तथा शपथ पत्र का प्रारूप वितरित किये जाएंगे।	**30 जुलाई** तक
4	जिन छात्र–छात्राओं के आवेदन पत्र 15 दिवस के अंदर वापिस प्राप्त नहीं होते हैं, उनके पालक/अभिभावकों को स्कूलों में ही बुलवा जाएगा। प्राचार्य/प्रधानाध्यापक/शिक्षक आवेदन पत्र तथा शपथ पत्र की समक्ष में पूर्ति करवाएंगे/करेंगे और समक्ष में हस्ताक्षर करवा कर **वापिस** प्राप्त किये जायेंगे।	**20 अगस्त** तक
5	शपथ पत्र का निर्धारित प्रारूप आवेदन पत्र के साथ ही वितरित किया जाएगा। उसकी पूर्ति कर आवेदन पत्र के साथ ही जमा करना होगा। इस पर नोटरी की सील आदि न होकर वह एक घोषणा पत्र के रूप में होगा। नायब तहसीलदार/तहसीलदार अपने स्तर पर कार्यवाही करते समय इसे अभिप्रमाणित करेंगे और आवश्यकता होने पर नोटरी से नोटराइज भी करा सकेंगे। इसका आवेदक से कोई शुल्क नहीं लिया जाएगा।	———————
6	प्राचार्य/प्रधानाध्यापक/शिक्षक प्राथमिक परीक्षण कर जाति का सत्यापन करेंगे और कॉउन्टर हस्ताक्षर के साथ आवेदन पत्र संबंधित राजस्व अधिकारी तहसीलदार/नायब तहसीलदार को प्रस्तुत करेंगे। यदि प्राथमिक जॉच में किसी आवेदक को संबंधित जाति का प्रमाण पत्र प्राप्त करने के अयोग्य पाया जाता है तो स्पष्ट टीप अंकित कर दी जाए किन्तु किसी भी स्थिति में आवेदन पत्र निरस्तीकरण की सूचना अनुविभागीय अधिकारी (राजस्व)/अधिकृत उप जिलाध्यक्ष द्वारा ही जारी की जाएगी।	**30 अगस्त** तक

7	अशासकीय स्कूलों में प्रवेश लेने वाले अनुसूचित जाति, जनजाति तथा अन्य पिछड़े वर्गों के छात्र–छात्राओं के जाति प्रमाण–पत्र बनाने के लिये यही प्रक्रिया होगी, किन्तु राजस्व अधिकारियों द्व ारा छानबीन हेतु लगाये जाने वाले कैम्पों में अपने संकूल के स्कूलों में आवेदकों को उपस्थित होना होगा।	
8	तहसीलदार/नायब तहसीलदार के कार्यालय में उक्त आवेदन प्राप्त होने पर उसे रजिस्ट्र में दर्ज किये जाएंगे। तत्पश्चात् स्थाई जाति प्रमाण पत्र जारी करने हेतु आवेदन पत्र की नायब तहसीलदार/तहसीलदार द्वारा आवश्यक छानबीन प्रारम्भ की जाएगी। **इस हेतु ग्राम पंचायतों तथा नगर पंचायत/नगर पालिका/निगम वार्डवार स्कूलों में कैम्प लगाये जाएं।** कैम्प की तिथि के साथ संबंधित ग्राम पंचायत/नगर पंचायत/नगरपालिका/वार्ड के आवेदकों की सूची सरपंच/पार्षदों, संबंधित पटवारी एवं मण्डल संयोजक, आदिम जाति कल्याण विभाग को देते हुये कैम्प में रिकार्ड सहित उपस्थित रहने हेतु निर्देशित किया जांए।	
9	उक्त जॉच प्रक्रिया तथा स्थाई जाति प्रमाण पत्र जारी करने की प्रक्रिया के दौरान जाति प्रमाण पत्र के अभाव में छात्र–छात्राओं को उन्हें मिलने वाली सुविधा से वंचित नहीं किया जाए। बल्कि जिन छात्र–छात्राओं के आवेदन पत्र स्थाई जाति प्रमाण पत्र के लिये अग्रेषित किये गये हैं, उन्हें **सरपंच/पार्षद** द्वारा दिये गये जाति प्रमाण पत्रों के आधार पर सुविधाएं प्रदान की जाए। **यह सुविधा सिर्फ कक्षा–1 से 8 तक प्रवेश लेने वाले छात्र–छात्राओं के लिये ही लागू होगी। साथ ही उस प्रथम वर्ष के लिये होगी जिस वर्ष जाति प्रमाण पत्र के लिये आवेदन पत्र अग्रेषित किया गया है।**	
10	आवेदकों की जाति तथा निवास अवधि के संबंध में रिकार्ड का परीक्षण कर आवेदक, सरपंच/पार्षद एवं	**30 नवम्बर**

	अन्य व्यक्तियों के मौके पर ही साक्ष्य लेकर अपनी अनुशंसा/रिपोर्ट के साथ प्रकरण/आवेदन पत्र संबंधित अनुविभागीय अधिकारी (राजस्व) को प्रस्तुत किये जाएंगे।	**तक**
11	अनुविभागीय अधिकारी कार्यालय में प्राप्त सभी आवेदन पत्र स्थाई जाति प्रमाण पत्र जारी करने के लिये पंजीयन किये जाकर कार्यवाही प्रारम्भ की जायेगी।	
12	अनुविभागीय अधिकारी (राजस्व) एवं कलेक्टर द्वारा अधिकृत उप जिलाध्यक्षों द्वारा **स्थाई (लेमिनेटेड) जाति प्रमाण पत्र** जारी कर संबंधित तहसील कार्यालय को भेजे जाएंगे। तहसील कार्यालय से प्राचार्य/प्रधानाध्यापक के माध्यम से **स्कूलों में** ही आवेदकों को प्रदाय किये जाएंगे।	**31 दिसम्बर तक**
13	यदि राजस्व अधिकारी किसी आवेदक से अतिरिक्त पूछताछ की आवश्यकता समझते हैं, तो वे संबंधित आवेदक को लिखित सूचना से कार्यालय में बुलाकर पूछताछ कर सकते हैं। किन्तु किसी भी स्थिति में आवेदक को एक बार से अधिक न बुलाया जाए।	
14	जॉच उपरान्त यदि कोई आवेदक जाति प्रमाण पत्र प्राप्त करने के लिये पात्र नहीं पाया जाता है तो उनका आवेदन पत्र कारण दर्शाते हुये निरस्त किया जाए। इसकी सूचना उस शिक्षण सत्र की समाप्ति के पूर्व संबंधित आवेदक को देना जाना आवश्यक है। साथ ही ऐसे प्रकरणों में अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़े वर्ग के संबंधित छात्र/छात्रा को देय सुविधा तत्काल बंद कर दी जाएगी।	31 जनवरी तक

(ख) <u>सीधे प्रस्तुत आवेदन पत्रों के आधार पर जाति प्रमाण पत्र जारी करने की प्रकिया</u>

अनुसूचित जाति/जनजाति/अन्य पिछड़े वर्ग के वे व्यक्ति, जिन्होंने स्कूली शिक्षा के दौरान (कक्षा 8वी) तक स्थाई जाति प्रमाण पत्र प्राप्त नहीं किया है। अब उन्हें हाई स्कूल की शिक्षा/ तकनीकी

पाठ्यक्रमों में प्रवेश/लोक सेवा एवं पदों में आरक्षण या शासन द्वारा देय अन्य सुविधाओं का लाभ लेने हेतु जाति प्रमाण पत्र की आवश्यकता है, को स्थाई (लेमिनेटेड) जाति प्रमाण पत्र जारी करने की प्रक्रिया निम्नानुसार होगी :–

(1) आवेदक नायब तहसीलदार/तहसीलदार के कार्यालय से सीधे आवेदन पत्र प्राप्त कर सकेंगे। आवेदन पत्र की सही–सही पूर्ति कर निर्धारित शपथ पत्र के साथ उसी कार्यालय में प्रस्तुत करेंगे। जाति तथा निवास की पुष्टि हेतु जो भी दस्तावेज उपलब्ध हो, उनकी प्रतियॉ आवेदक आवेदन पत्र के साथ ही संलग्न करेंगे।

(2) नायब तहसीलदार/तहसीलदार कार्यालय द्वारा आवेदक को प्राप्ति की रसीद दी जाएगी। इसमें स्थाई जाति प्रमाण पत्र प्रदाय करने की संभावित तिथि अंकित की जाएगी, जो किसी भी स्थिति में 6 माह के बाद की न हो। आवेदन पत्र को रजिस्ट्र में दर्ज किया जाएगा। तत्पश्चात् आवेदक की जाति, उसकी वर्तमान पते पर निवास अवधि, आय (अन्य पिछड़े वर्गों के प्रकरणों में) आदि के संबंध में जॉच यथासंभव उपरोक्त **कंडिका–2 (क)** 8 में उल्लेखित प्रक्रिया के साथ ही की जाए। यदि किसी कारण से उक्त प्रक्रिया के साथ जॉच संभव न हो या आवेदन बाद में प्राप्त हुये हों तो आवेदन प्राप्ति के **अधिकतम 3 माह** में पृथक से जॉच कर प्रकरण अनुविभागीय अधिकारी (राजस्व) को अपनी स्पष्ट अनुशंसा सहित प्रेषित किये जाएं।

(3) अनुविभागीय अधिकारी (राजस्व), प्रकरण प्राप्त होने के अधिकतम **दो माह** के अंदर स्थाई जाति प्रमाण पत्र जारी कर तहसीलदार/नायब तहसीलदार कार्यालय को भिजवाएंगे। वहॉ से संबंधित आवेदक को प्रदाय किये जाएंगे। इस पूरी प्रक्रिया में **अधिकतम 6 माह से अधिक की अवधि न ली जाए**।

(4) यदि किसी आवेदक के संबंध में जॉच उपरान्त यह पाया जाता है कि वे नियमों के अधीन संबंधित जाति का प्रमाण पत्र प्राप्त करने की पात्रता नहीं रखते हैं, उनका आवेदन पत्र कारण दर्शाते हुये निरस्त किया जाए। इसकी सूचना अधिकतम 6 माह के अंदर आवेदक को दी जाना चाहिए।

(ग) <u>राज्य पुनर्गठन अधिनियम, 2000 के फलस्वरूप प्रभावित व्यक्तियों के लिये प्रकिया</u>

मान0 सर्वोच्च न्यायालय के विभिन्न प्रकरणों में दिये गये गये न्याय दृष्टांत तथा भारत सरकार द्वारा समय≤ पर जारी निर्देशों के अनुसार अनुसूचित जाति और अनुसूचित जनजाति के लिये वर्ष 1950 तथा अन्य पिछड़ा वर्ग के लिये दिनांक 26–12–84 या उसके पूर्व की स्थिति में संबंधित व्यक्ति उस राज्य में निवास करता हो जहॉ से उसने प्रमाण पत्र की मांग की है।

(1) अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़े वर्ग के जो व्यक्ति मूल रूप से उन जिलों के स्थाई निवासी है ं, जो जिले, राज्य पुनर्गठन के बाद मध्यप्रदेश राज्य में स्थित है, को मध्यप्रदेश से जाति प्रमाण पत्र प्राप्त करने की पात्रता होगी।

(2) उपरोक्त श्रेणी के आवेदकों को मध्यप्रदेश राज्य के उस जिले/अनुभाग से ही जाति प्रमाण पत्र जारी किया जाएगा जिस जिले/अनुभाग का वह/उनका परिवार स्थाई निवासी है।

(3) जो व्यक्ति मूलतः छत्तीसगढ़ राज्य में स्थित जिलों के निवासी हैं, उन्हें प्रवृजन संबंधी नीचे उल्लेखित कंडिका–3 के अनुसार जाति प्रमाण पत्र जारी किये जाएंगे।

3. <u>प्रवृजन संबंधी प्रकरणों में जाति प्रमाण पत्र जारी करने की व्यवस्था</u> :– राज्य शासन, सामान्य प्रशासन विभाग के मूल

परिपत्र क्रमांक एफ 1/स.प्र.वि./आ.प्रदिनांक 1–8–1996 (अनुसूचित जातियों तथा अनुसूचित जनजातियों के लिये) एवं परिपत्र क्रमांक एफ 7–2/96/आ.प्र./एक दिनांक 12 मार्च, 1997 (अन्य पिछड़ा वर्गों के लिये) की कंडिका–15 एवं 16 विलोपिता की जाती है।

अनुसूचित जाति तथा अनुसूचित जनजाति के जो व्यक्ति/उनका परिवार महामहिम राष्ट्रपति द्वारा जातियों की अधिसूचना जारी करने के वर्ष 1950 के बाद तथा अन्य पिछड़े वर्गो के के जो व्यक्ति/परिवार अन्य पिछड़े वर्गों की जातियों की सूची अधिसूचित करने के वर्ष 1984 के बाद अन्य राज्यों से प्रवृजित होकर मध्यप्रदेश में आकर बस गये है, वे अन्तर्राज्यीय प्रवृजन की श्रेणी में आते हैं।

(1) उक्त श्रेणी के व्यक्तियों को जाति प्रमाण पत्र उसी राज्य से प्राप्त करना होगा, जिस राज्य से उनका मूल रूप से संबंध है।

(2) किन्तु यदि इस श्रेणी के आवेदक, यदि उनके माता–पिता को मूल राज्य के सक्षम प्राधिकारी द्वारा जारी किया गया जाति प्रमाण पत्र प्रस्तुत करते हैं, तो उसके आधार पर आवेदक को एक पृथक निर्धारित प्रारूप 'तीन' में जाति प्रमाण पत्र जारी किया जा सकेगा। बशर्ते उसकी जाति मध्यप्रदेश मे भी उसी प्रवर्ग (अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़ा वर्ग) में शामिल हो जिसमें उसके मूल राज्य में अधिसूचित हैं।

(3) राजस्व अधिकारी द्वारा ऐसे जाति प्रमाण पत्र आवश्यक जॉच उपरान्त पूर्ण सावधानी के साथ ही जारी किये जा सकेंगे और आवश्यक समझे तो उनके मूल राज्य से इसकी जॉच भी करायी जा सकती है।

(3) भारत सरकार, गृह मंत्रालय के आदेश No. BC-16014/1/82-SC&BCD-1 दिनांक 6 अगस्त, 1984 के अनुसार उपरोक्तानुसार प्रारूप–तीन में जारी जाति प्रमाण पत्र पर

आरक्षण की सुविधा उसी राज्य से प्राप्त होगी, जिस राज्य से आवेदक का मूल रूप से संबंध है। मध्यप्रदेश शासन द्वारा देय आरक्षण सुविधा की पात्रता नहीं होगी। किन्तु यह जाति प्रमाण पत्र केन्द्र सरकार की सेवाओं/संस्थाओं आदि में आरक्षण का लाभ प्राप्त करने के लिये मान्य होंगे।

4. (1) इन निर्देशों के साथ आवेदन पत्र, स्थाई जाति प्रमाण पत्र तथा शपथ पत्र/घोषणा पत्र का प्रारूप संलग्न किया जा रहा है। कोई भी राजस्व अधिकारी इससे भिन्न प्रारूप में आवेदन पत्र तथा शपथ पत्र की मांग नहीं करेंगे और न ही भिन्न प्रारूप में स्थाई जाति प्रमाण पत्र जारी करेंगे।

(2) प्रारूप 'एक' एवं 'दो' एक साथ (आगे–पीछे) मुद्रित किये जा रहे हैं। इन्हें एक साथ जारी किया जाए।

5. जाति प्रमाण पत्र समय–सीमा में जारी हो सके, इस दृष्टि से संबंधित जिला कलेक्टर अपने जिले में पदस्थ अन्य उप जिलाध्यक्षों को जाति प्रमाण पत्र जारी करने हेतु अधिकृत कर इस कार्य हेतु उन्हें अनुविभागीय अधिकारी घोषित कर सकेंगे।

परन्तु जिले में पदस्थ अन्य उप जिलाध्यक्षों द्वारा जारी किये गये जाति प्रमाण पत्रों पर जावक क्रमांक संबंधित अनुविभागीय अधिकारी के कार्यलय का ही अंकित किया जाएगा और उसी कार्यालय में इसका रिकार्ड व्यवस्थित रखा जाएगा। ताकि आवश्यकतानुसार उसका परीक्षण/पुष्टि की जा सके।

72. Thus, it is clear from Circular dated 11-7-2005, caste certificate shall also be issued to those persons who have migrated from State of Chhatisgarh, on the basis of their social status in original State but that Caste Certificate would be legal for appointment in Central Govt.

Services/Institutions only and the person concerned shall not be entitled for availing the benefits of such Caste Certificate in State of Madhya Pradesh.

73. Thus, when a caste certificate is in question, then the High Power Caste Scrutiny Committee has to conduct an enquiry, which necessarily means, that the High Power Caste Scrutiny Committee shall also consider as to whether the competent authority had issued the Caste Certificate as per the guidelines or not and shall also conduct an enquiry on the basis of documents which are necessary to obtain Caste Certificate.

74. Thus, the contention of the Counsel for the respondent no. 5, that this Court should not look into the material placed before the High Power Caste Scrutiny Committee is misconceived. This Court can always look into the aspect as to whether the decision of the High Power Caste Scrutiny Committee is based on Evidence or it is perverse and contrary to law or not?

75. Thus, by keeping the limited scope of interference in mind, this Court would consider the material which was before the High Power Caste Scrutiny Committee.

After migrating from State of Punjab, whether forefathers of the respondent no. 5 continued their original profession of playing drama and walking on rope (if any) or not?

76. The statements of Gurmej Singh and Sewa Singh i.e., father and uncle of respondent no. 5, recorded by Vigilance Officer have already been produced in the previous para. They have not claimed that after migrating to State of M.P., their father Boodh Singh was ever involved in playing drama or walking on the rope etc.

77. The statement of respondent no. 5 Jajpal Singh "Jajji" recorded by Vigilance Officer, is as under :

जजपाल सिंह जज्जी s/o गुरूमेज सिंह उम्र 55 वर्ष नि 353 खालसा कालोनी अशोकनगर 9425191543.

ने बयान किया कि मै जजपाल सिंह जज्जी वर्तमान मे नवम्बर 2018 मे अशोक नगर विधानसभा कमांक 32 (SC) से विधायक निर्वाचित हुआ। हमारा परिवार मूलतः पंजाब का रहने वाले थे। करीबन 90–100 वर्ष पूर्व हमारे दादाजी बूढ सिंह ग्राम खारा पंजाब से ग्राम सिंधाडा जिला अशोकनगर (म.प्र.) मे सिंधिया रियासत के समय शासन ने बसाये थे। शासन ने खेती के लिये पंजाब आये लोगों को जमीने दी थी। मेरे पूर्वज पंजाब मे गांव जाकर तमाशा, मलखम व रस्सी पर चलने के करतब आदि दिखाकर अपना जीवन यापन करते थे। हमारे पूर्वजों की जाति नट बाजीगर है। **पंजाब मे हमारे पूर्वजों ने गुरूद्वारे मे अमृत छककर (चखकर) सिक्ख पंथ मे शामिल हो गये थे। म.प्र. मे आकर सिक्ख बनकर खेती करने लगे थे। पारंपरिक नाच गाना व करतब दिखाने का काम छोड दिया। मेरे परिवार मे मेरे से पूर्व कोइे पढा लिखा नही है तथा सरकारी नौकरी व अन्य पदों मे नही से जाति प्रमाण पत्र की आवश्यकता नही होने परिवार मे किसी जाति प्रमाण पत्र नही है।** मेरा जन्म 1963 मे ग्राम सिंधाडा जिला अशोकनगर मे हुआ था मै कक्षा 1 से 5 तक सिंधाडा मे पढा उसके बाद कक्षा 8 व 11 परीक्षायें प्राइवेट दी थी। कक्षा 9 मे बा उ मा विधालय अशोकनगर मे एडमीशन लिया पर कक्षा 9 के बाद स्कूल छोड दिया था। धर मे ट्यूशन पढता रहा था। कक्षा 11 के बाद नेहरू महाविद्यालय से 1981–82 मे B.A. उत्तीर्ण किया। उसके बाद 1985–86 मे कालेज छोड दिया व अपने गांव मे खेती किसानी करने लगा। राजनीति

करने लगा व बाद मे अशोक नगर से विधायक निर्वाचित हुआ। वर्ष 2008 मे जाति प्रमाण पत्र नट अनुसूचित जाति का अनुविभागीय अधिकारी (राजस्व) अशोकनगर द्वारा पूरी जाति की जांच पडताल के बाद स्थाई प्रमाण पत्र जारी किया गया है।

राजनीति मे होने के कारण मेरे राजनैतिक विरोधी बार बार शिकायत करके परेशान करते है जनाधार होने से चिढते है तथा निर्वाचित होने से रोकने के लिए झूठी शिकायते करते है जबकि मेरा नट जाति का अनुसूचित जाति का प्रमाण पत्र प्राधिकृत अधिकारी द्वारा जारी किया गया है। हमारे फूफा व रिश्तेदार बहनोई भी नट अनुसूचित जाति मे आते है । मै पढने के दौरान किसी छात्रावास मे नही रहा हूं और ना ही किसी प्रकार की कोई छात्रवृति मेरे द्वारा ली गई है। मेरे पिता दादा भाई बहन व अन्य परिजन शासकीय सेवा मे नही रहे है।

78. The statement of respondent no. 5 was also recorded by the High Power Caste Scrutiny Committee, which has been reproduced in the impugned order and in that statement, the respondent no. 5 merely stated that on previous occasions, enquiries have been done. His Caste Certificate of OBC was rejected on the ground that he is already holding the Caste Certificate of Scheduled Caste i.e., "Nat". He has already produced all necessary documents before the Committee and therefore, justice may be given to him. In cross-examination, he admitted that he had adorned the seat of President, Municipal Council Ashok Nagar from 1999 to 2004 as an OBC candidate. He also admitted that he never used the Caste Certificate of "Nat" for his educational purposes. He further stated that agricultural land was given by Raja Gwalior State free of cost as a result, his family is now prosperous. He further stated that his maternal relatives had got a caste certificate of "Keer" prepared from

Amritsar. Since "Keer" is a Schedule Caste in Amritsar, therefore, certificate of Schedule Caste was prepared by Authority of Amritsar. Under an impression that "Keer" might be sub-caste of Schedule Caste, therefore, he obtained the Certificate of "Keer" caste from Madhya Pradesh. Since, "Keer" is an OBC caste in State of Madhya Pradesh, therefore, by mistake OBC certificate was issued.

79. Thus, the respondent no. 5, has himself admitted that after migration to State of Madhya Pradesh, his grand father left the original profession and became a farmer. Therefore, it is clear that the respondent no. 5 has clearly admitted that neither he adopted the original profession of his forefather (if any), nor his forefathers continued their original profession of playing drama and walking on rope (if any). Even in his statement before Committee, the respondent no. 5 has not stated anything about his profession after migration. He has also not stated anything about his forefathers, although in cross-examination, he stated that his forefathers were playing drama and were walking on rope etc, but he did not claim that his grand father continued the said profession after his migration to State of M.P.

80. The Statement of Harvinder Kaur was also recorded by Vigilance Officer. She has stated that She had contested the election for the post of Sarpanch, Gram Panchayat Singhada in the year 2015. It was reserved for Unreserved Women and She got elected. Respondent no. 5 is cousin brother of her husband. Thus, from the statement of this witness, it is clear that She had contested the election from an Unreserved Women seat. She has not spoken regarding caste.

81. Jagdish Prasad Sharma is the Incharge Head master of primary

School,Village Singhada and in his statement recorded by Vigilance Officer, he has stated that as per the Admission Register, the respondent no. 5 had taken admission in class 1 on 1-8-1969 and his date of birth is5-1-1963 and his caste is mentioned as Sikh. Thus it is clear from School record, that the caste of respondent no. 5 is not mentioned as "Nat".

82. The statement of Anil Khantwal was also recorded by Vigilance Officer, who has stated that he is working as Principal of Balak Excellence Higher Secondary School, Ashoknagar. The caste of respondent no. 5 is mentioned as Sikh. Thus, it is clear from School record, that the caste of respondent no. 5 is not mentioned as "Nat".

83. Statement of Ranjeet Singh, who is husband of sister of respondent no. 5 was also recorded by Vigilance Officer, who has stated that the caste of respondent no. 5 and his caste is "Nat". He claimed that since, he was never in need of Caste Certificate, therefore, he doesnot have caste certificate. Thus, it is clear that brother-in-law of the respondent no. 5 also doesnot have caste certificate.

84. Chhindrapal Singh has stated in his statement recorded by Vigilance Officer, that respondent no. 5 is the son of his maternal uncle Gurmej Singh. Thus, it is clear that this witness is the son of sister of grand father of respondent no. 5. He has claimed that he belongs to Schedule Caste. Earlier one FIR was lodged against him for various offences including under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, but later on, the offences under S.C./S.T were deleted because this witness also belongs to S. Caste.

85. Considered the evidence/statement of this witness. This witness is

the son of sister of Grand Father of respondent no. 5. Even for the sake of arguments, if it is accepted that Chhindrapal Singh belongs to S. Caste, but it would not take the case of respondent no. 5 any further for the simple reason, that if sister of grand father of respondent no. 5 was married in the family of Scheduled Caste, then it cannot be said that the respondent no. 5 would also become a member of Scheduled Caste. Further, this witness has also not produced his Caste Certificate and claimed that he would produce the same at a later stage, but as per the record filed by the Respondents no.1 to 4, no Caste Certificate was ever produced by this witness.

86. However, the respondents no.1 to 4 have filed a copy of letter dated 7-5-2002 written by Additional Superintendent of Police Guna, which is addressed to Superintendent of Police, Guna. In this letter, it is mentioned that Sheetal Singh, brother of respondent no. 5 has produced one caste certificate issued by Punjab authorities in which it is mentioned that he (Sheetal Singh) belongs to "Nat" caste. Similarly, one certificate issued by Sarpanch of Gram Panchayat Mohari has been produced, in which the caste of Sheetal Singh has been shown to be *Madari.* Add. S.P. also obtained a copy of judgment passed in S.T. No. 130/2000 decided by Special Judge, Guna in which Chhindrapal Singh and Sheetal Singh were held to be members of Scheduled Caste. Therefore, it was opined that the offences under S.C./S.T. (Prevention of Corruption) Act may be deleted against Chhindrapal Singh and Sheetal Singh.

87. If the report of Add. S.P., Guna is considered, then it is clear that he had relied upon the Caste Certificate issued by Punjab which is not admissible in State of M.P. Further more, when the forefathers of the

respondent no. 5 and his brother Sheetal Singh had already migrated to State of M.P. about 90-100 years back, then how the Punjab Authorities can issue a Caste Certificate in favor of Sheetal Singh by declaring him to be a member of Scheduled Caste? Another certificate on which reliance was placed by Add. S.P. was one which was issued by Sarpanch. There is nothing on record to suggest that Sarpanch was competent authority to issue caste certificate. Furthermore, the so-called caste certificate issued by Sarpanch of village Mohari has not been placed on record. Further, the Add. S.P. Guna had relied upon some judgment passed in S.T. No. 130/2000. However, the copy of the said judgment was not placed on record.

88. Further more, it is clear from the report of Add. S.P., Guna that investigation of Crime No. 28/2002 registered against Chhindrapal Singh and Sheetal Singh (brother of respondent no. 5) for offence under Sections 323,294,506B,34 of IPC and under Section 3(1)(x) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act was going on and Ms. Suman Gurjar, S.D.O.(P) was investigating the offence. Thus, it appears that Shri Avinash Sharma, Add. S.P., gave his parallel report during the pendency of the investigation.

89. This Court in the case of **Deepak @ Preetam Verma and another vs. State of M.P. and another** by order dated **11/9/2018** passed in **M.Cr.C. No.12592/2018** has held that parallel enquiry under Section 36 of CrPC during the pendency of investigation is not maintainable. The said order has been affirmed by the Supreme Court by order dated **18/1/2022** passed in **SLP (Criminal) No.1345/2019 (Surendra Singh Gaur vs. State of M.P. and others)** and held as under:-

The present petitioners have approached in their own rights to question the observations/remarks which have been recorded by the learned Judge in the order impugned in reference to the manner in which an inquiry was conduced parallel to the investigation which was undertaken by the Investigating Officer in reference to FIR in Crime No. 75/2017.

We have heard the learned Counsel for the parties at length and we are of the view that neither Section 36 of the Code nor the circulars of which a reference has been made during the course of arguments in any way provides for holding an independent and parallel inquiry along with the investigation going ahead in reference to the FIR in Crime No. 75/2017. In the instant case, a complaint was made for holding fair investigation in reference to the FIR in Crime No. 75/2017, we find no reason the officers under whose instructions an independent inquiry was initiated apart from the investigation which was going ahead in reference to the crime, in contravention of the procedure prescribed by law.

After the matter is examined at length by the High Court under the impugned judgment(s) for which reference has been made that an independent inquiry which was conducted in reference to the FIR in Crime No. 75/2017 was in no manner contemplated by law and in this reference observations have been made in regard to the conduct of the officers in holding an inquiry in reference to the FIR in Crime No. 75/2017.

The learned Counsel appearing on behalf of the State filed their counter affidavit and has placed on record a circular dated 26th June, 2010 under the instructions of the Inspector General of Police, Madhya Pradesh. We find that the circular of the State Government is in conformity with Section 36 of the Code, but the procedure which was followed by the officers in holding inquiry was not in consonance with the circular of which a reference has been made by the High Court under the impugned judgment.

After hearing the learned Counsel for the parties and taking note of the material on record, we find no error being committed by the High Court in the judgment impugned, which may call for our interference under Article 136 of the Constitution.

Consequently, both the petitions fail and are dismissed. Pending application(s), if any, shall stand disposed of."

90. Thus, it is clear that the parallel enquiry under Section 36 of CrPC is not maintainable during the pendency of investigation. Therefore, the report of Add. S.P. Guna is not admissible and is a nullity. Further, in absence of copy of judgment passed in S.T. No. 130/2000, this Court cannot hold that Sheetal Singh (brother of respondent no. 5) was held to be a member of Scheduled Caste.

91. On the contrary, the petitioner had examined himself, Roshan Yadav, Gopilal Jatav, Devendra Tamrakar, in support of his contention that the respondent no. 5 doesnot belong to "Nat" caste.

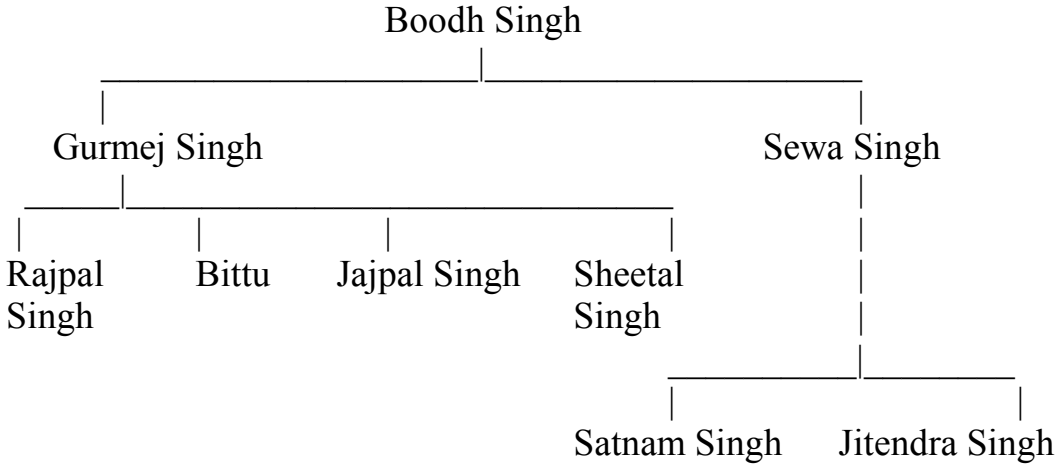
92. The Vigilance Officer has also collected some documents which are as under :

(i) Certificate issued by Patwari, Patwari Halka No. 28, Tahsil Piprai, Distt. Ashoknagar, to the effect that in the year 1950, the father and uncle of respondent no. 5 did not have any agricultural land, whereas one land is recorded in the name of Boodh Singh, grand father of respondent no. 5. A copy of Misal bandobast of year 1956-57 was also enclosed. However, the caste of grand father of respondent no. 5 is not mentioned in the revenue record. However, the respondent no. 5 has not filed any document of the year 1950 to show that his grand father was having agricultural land.

(ii) Khasra Panchsala of the year 2018-2019 of village Singhada, Tahsil Piprai, Distt. Ashoknagar has been filed to show that Jitendra Singh son of Sewa Singh, Satnam Singh son of Sewa Singh and Sewa Singh (Uncle of respondent no.5) have agricultural land, but in those documents also the caste of Sewa Singh or his sons has not been

mentioned.

(iii) Patwari of Patwari Halka No.28, Tahsil Piprai, Distt. Ashoknagar has submitted the Family Tree of the respondent no. 5 by his letter dated 4-7-2019, which is addressed to Tahsildar, Tahsil Piprai, Distt. Ashoknagar and Tahsildar, Tahsil Piprai, Distt. Ashoknagar, forwarded the same to the Vigilance Officer, on the very same day. According to this document, the family tree of the respondent no. 5 is as under :



93. The respondent no. 5 has also admitted the Family Tree.

(iv) Tahsildar, Ashoknagar by his letter dated 3-7-2019, informed the Vigilance Officer, regarding lands of respondent no. 5 and his family members situated in village Savan and Bhadon, according to which Sheetal Singh (brother of respondent no. 5) and Smt. Sukhvinder Kaur (wife of respondent no. 5) have lands, but from the Khasra Panchsala of said lands, it is clear that the caste of the holder is mentioned as Sikh and "Nat" has not been mentioned.

(v) Similarly, respondent no. 5 has land in village Bhadon, Distt. Ashoknagar, and in the revenue record, his caste has been mentioned as Sikh and "Nat" has not been mentioned.

(vi) Similarly, Gurmej Singh, father of respondent no. 5 has land in

village Bhadon, Distt. Ashoknagar, and in the revenue record, his caste has been mentioned as Sikh and "Nat" has not been mentioned.

(vii) Similarly, it appears that the respondent no. 5 had also filed an application for grant of Arms License on 2-1-2004, and in that application, he declared himself to be belonging to Unreserved Category.

94. Thus, it is clear that in all the revenue documents issued by any authority of State of Madhya Pradesh, the caste "Nat" has not been mentioned either in respect of respondent no. 5 or any of his family member.

95. Similarly, in the School record, the caste of respondent no. 5 has not been mentioned as "Nat".

96. Furthermore, the witnesses have stated that since, they were doing agricultural activities, and none of them is in Govt. job, therefore, they were not in need of Caste Certificate.

97. This explanation given by the witnesses including respondent no. 5 is not plausible. Lot of schemes have been formulated by the State of M.P., for the benefit of members of reserved category. Therefore, even if none of the family member of the respondent no. 5 is/was in Govt. job, but still they could have obtained the caste certificate for taking benefits of the schemes. Thus, it is clear that none of the family member of respondent no. 5 had ever taken advantage of any scheme formulated by State of M.P., for the upliftment and benefit of members of reserved category.

98. Thus, even otherwise, the respondent no. 5 could not produce any document or evidence to show that his forefather were belonging to Scheduled Caste within the State of Madhya Pradesh. On the contrary, it

is the statement of respondent no. 5, that after migrating from Punjab in the year 1919-1929, his forefather never played drama or walked on the rope but they started cultivating land.

99. Furthermore, the High Power Caste Scrutiny Committee has also given a finding that Superintendent of Police Ashok Nagar, has not given any specific finding with regard to the Caste of the respondent no. 5 and this Court is of the considered opinion that such finding given by the High Power Caste Scrutiny Committee is correct and accordingly it is **upheld.**

Authenticity of certificate issued by Gram Panchayat Khara, Tahsil Tarn Taran, Distt. Amritsar

100. Before the Vigilance Officer, the respondent no.5 had relied upon a certificate issued by Gram Panchayat Khara, Tahsil Tarn Taran, Distt. Amritsar. The statement of Balbeer Singh, Sarpanch of Gram Panchayat Khara, Tahsil Tarn Taran Distt. Amritsar was also recorded.

101. The certificate issued by Gram Panchayat Khara, doesnot bear any date nor bears any dispatch number. Further, it is clear from the said certificate, it is based on information received from predecessors (who are not alive). Thus, the certificate relied upon by the respondent no. 5 cannot be accepted for the reasons that it is based on hearsay evidence and above all, any certificate issued by authority of another State with regard to the social status enjoyed by the forefathers of the person who subsequently migrated to another State has no value in the migrating State.

Whether the respondent no. 5 was holding multiple Caste Certificates?

102. On 2-12-1999, the respondent no. 5 obtained "Keer" certificate to show that he belongs to OBC. On the strength of said certificate, he contested the election for the post of President, Municipal Council, Ashok Nagar which was reserved for OBC and was elected.

103. However, on a complaint it was found that the respondent no. 5 had already submitted his nomination paper for the post of member of Zila Panchayat by claiming himself to be a member of Scheduled Caste, belonging to "Nat" community.

104. On 20-4-1999, the respondent no. 5 had submitted his nomination paper for the post of Member, Krishi Upaj Mandi as an Unreserved Candidate. However, it appears that the respondent no. 5 did not contest the election for the post of Member, Krishi Upaj Mandi and Member of Janpad Panchayat.

105. From the year 1994 to 1999, the respondent no. 5 had remained as Member of Janpad Panchayat as a candidate of Unreserved Category.

106. By order dated 25-2-2004, the High Power Caste Scrutiny Committee cancelled the "Keer" caste certificate which was issued in favor of respondent no. 5, but by that time, the respondent no. 5 had already completed his tenure as President, Municipal Council Ashok Nagar as an OBC candidate.

107. The reason for cancellation of OBC certificate was that since, the respondent no. 5 had already submitted his nomination paper for the post of Member Zila Panchayat by claiming himself to be a member of Scheduled Caste, therefore, the second caste certificate to the effect that the respondent no. 5 belongs to OBC category was cancelled. However, it is made clear that the respondent no. 5 has not clarified as to why he once

again obtained the Scheduled Caste Certificate in the year 2008. Even the earlier Scheduled Caste certificate obtained by the respondent no. 5 on earlier occasion has not been placed on record. Further more, the respondent no. 5 has failed to prove that he belongs to "Nat" Caste.

108. Thus, it is clear that from time to time, the respondent no. 5 changed his social status as per the reservation of post and in order to do so, he also successfully obtained different caste certificates claiming Scheduled Caste and OBC and also contested the election as Unreserved Candidate and even Smt. Harvinder Kaur, the relative of respondent no. 5 had contested and won the election for the post of Sarpanch, Gram Panchayat Singhada as an Unreserved Women Candidate.

Whether the conclusion drawn by High Power Caste Scrutiny Committee that since certificate of OBC has been cancelled, therefore no adverse inference can be drawn, is correct or not?

109. It is the admission by respondent no.5 himself in his cross-examination, that on the strength of OBC certificate, he had adorned the seat of President, Municipal Council, Ashok Nagar for the full term. However, in his cross-examination, the respondent no.5 has given an explanation, that although he was under an impression that "Keer" is also a Scheduled Caste in State of M.P. and only under that impression that a Scheduled Caste certificate would be issued, he applied for Caste Certificate, but by mistake the OBC certificate was issued.

110. By no stretch of imagination, this explanation given by the respondent no.5 can be accepted. If the respondent no.5 was treating himself to be a member of Scheduled Caste, and even if an incorrect certificate of OBC caste was issued, then he should not have taken the

advantage of so called in correct certificate and should not have contested the election as an OBC candidate, but the respondent no. 5,not only took advantage of OBC certificate and also remained on the post of President, Municipal Council, Ashok Nagar, which was reserved for OBC candidate. Thus, it is clear that the respondent no.5 had deliberately obtained the false OBC certificate.

Whether High Power Caste Scrutiny Committee has rightly considered this aspect.

111. The High Power Caste Scrutiny Committee has tried to ignore the OBC certificate by mentioning that it was cancelled subsequently, but did not consider as to whether the OBC certificate was obtained deliberately by making false declaration or not? The High Power Caste Scrutiny Committee did not consider as to why the respondent no. 5 took advantage of OBC certificate by adorning the seat of President, Municipal Council, Ashok Nagar for its entire term of 5 years?

Whether the respondent no. 5 can claim himself to be belonging to "Keer" as well as "Nat" community?

112. Undisputedly, "Keer" and "Nat" community are two different castes. In the year 1999, the respondent no.5 had claimed himself to be a member of "Keer" community and thereafter, he started claiming himself to be a member of "Nat" Community/caste. However, this two contradictory stands taken by respondent no.5 were conveniently ignored by High Power Caste Scrutiny Committee by merely observing that the OBC certificate was cancelled.

Conclusion

113. Thus, this Court is of the considered opinion, that the conclusion

drawn by the High Power Caste Scrutiny Committee with regard to correctness of Caste Certificate, on the basis of one Jamabandi (Khasra) of village Khara, Tahsil Tarn Taran, Distt. Amritsar is contrary to the judgments passed by the Supreme Court, but even otherwise, the respondent no. 5 could not produce any document/evidence before the High Power Caste Scrutiny Committee to show that he belongs to "Nat" in State of Madhya Pradesh also.

114. Thus, the conclusion drawn by the High Power Caste Scrutiny Committee only on the basis of Jamabandi (Khasra) of village Khara, Tahsil Tarn Taran, Distt. Amritsar is perverse and contrary to judgment passed by Supreme Court in the case of **Ranjana Kumari (Supra)** as well as other judgments.

115. Accordingly, the impugned order dated 18-12-2019 passed by High Power Caste Scrutiny Committee is **quashed** and it is held **that the respondent no. 5 has failed to prove that he belongs to "Nat" i.e., Scheduled Caste. As a consequence thereof, the Caste Certificate issued by Sub-Divisional Officer, Ashok Nagar that respondent no. 5 Jajpal Singh "Jajji" belongs to "Nat' Caste is hereby quashed and is confiscated with immediate effect.**

116. The Supreme Court in the case of **Madhuri Patil (Supra)** has held as under :

> **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. 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 high-er 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-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

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

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

9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.

10. In case of any delay in 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.

117. Accordingly, the Superintendent of Police, Ashok Nagar is directed

to immediately lodge a FIR against the respondent no. 5 Jajpal Singh "Jajji". The Superintendent of Police, Ashok Nagar is also directed to personally investigate as to whether Jamabandi (Khasra) of the year 1964-65 of village Khara, Tahsil Tarn Taran, Distt. Amritsar is in existence or not? He shall also verify that whether photocopy of Jamabandi (Khasra) filed by respondents no. 1 to 4 along with return is correct or photocopy of Jamabandi (Khasra) kept in envelop no. 3 of the record of Committee is correct. Since, the original record of the committee has been re-sealed by the Reader of this Court, therefore, it is directed that the seal shall be opened by the Superintendent of Police, Ashok Nagar only and prior to that, the seal shall not be opened by any body. If any discrepancy is found, then the Superintendent of Police Ashok Nagar shall also include the said discrepancy in the criminal case registered against the respondent no.5.

118. Since, the respondent no. 5 is a sitting M.L.A. having been elected from Ashok Nagar Constituency No.32 which is a constituency reserved for Scheduled Caste, therefore, the Registry of this Court is directed to immediately send a copy of this Judgment to Speaker, Vidhan Sabha, State of Madhya Pradesh for necessary information and further action in the light of Judgment passed by the Supreme Court in the case of **Madhuri Patil (Supra).**

119. Before parting with this order, this Court would like to mention that as per order sheet dated 1-11-2008 written by Tahsildar, Tahsil Ashoknagar, which has been filed by the respondents no.1 to 4, it is clear that Shri S.S. Gautam, Advocate had given legal opinion in favor of respondent no.5, which was relied upon by the Tahsildar, Tahsil

Ashoknagar. It is not clear as to whether said legal opinion was given by Shri S.S. Gautam, Advocate on his own or it was sought by the authorities from him. Under these circumstances, it is for Shri S.S. Gautam, Advocate, to consider as to whether he should have appeared as a Counsel for the respondent no. 5 or not?

120. The petition succeeds and is **Allowed** with **cost of Rs. 50,000/-** to be deposited by respondent no. 5 before the Registry of this Court within a period of 1 month from today.

(G.S. AHLUWALIA)
JUDGE