STATE OF MAHARASHTRA AND ORS. A

v.

RAVI PRAKASH BABULALSING PARMAR & ANR.

OCTOBER 31, 2006

[S.B. SINHA AND DALVEER BHANDARI, JJ.] B

Administrative law:

Quasi Judicial body:

C

Caste Scrutiny Committee—Cancellation of caste certificate—Holding of enquiry by Committee in deciding the validity of certificate—Permissibility of—Held: Permissible—Scrutiny Committee is a quasi-judicial body and set up for a specific purpose—Evidence to be adduced in a matter before it not restricted to admission of documentary evidence only—It may take oral evidence—Scheduled Castes and Scheduled Tribes Orders Act, 1976— D *Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification) Caste Certificate Act, 2000.*

Evidence—Nature of evidence to be adduced by Quasi judicial body— E *Discussed.*

Judicial restraint:

Sweeping remarks by judges—Observation by High Court that the job of caste scrutiny should be assigned to trained Judicial Officers and not to F *bureaucrats who are not legally trained to appreciate evidence in correct perspective—Held: Such sweeping remarks without adequate material on record unwarranted—Judges should exercise restraint before making such observations which have a far reaching effect—Constitution of India, 1950—Article 235.*

G

Administration of justice:

Justice delivery system—Receipt of letters from party urging the Court not to remit the matter back to the High Court—Held: Such practice of writing letters to the judges when matter pending judgment deprecated.

 H

A Respondent claimed to be member of Schedule Tribe belonging to Thakur community as envisaged in the Scheduled Castes and Scheduled Tribes Orders Act, 1976. He obtained appointments and admission in various institutions on the basis of ST Certificate issued to him.

The Caste Scrutiny Committee constituted in terms of *Madhuri Patel* B Case*, opined that he did not belong to the said community and in fact belongs to Kshatriya Thakur caste, whereupon his ST Certificate was cancelled. Appellate authority upheld the order of Scrutiny Committee. Respondent preferred Writ Petition before High Court. High Court allowed the writ petition holding that the Scrutiny Committee had no jurisdiction to go into C the question by holding an enquiry that he belonged to Kshatriya Thakur Caste and the Committee could get itself satisfied only on the basis of documentary evidence and no oral evidence would be admissible. The High Court further directed that the job of caste scrutiny should be assigned to trained Judicial Officers and not to bureaucrats and these committees should be brought under the control and supervision and purview of Article 235 of the Constitution. D Aggrieved by the order, State filed the present appeal.

Allowing the appeals and remitting the matter to High Court for fresh consideration on merits, the Court

HELD: 1. The Caste Scrutiny Committee is a quasi-judicial body. It E has been set up for a specific purpose. It serves a social and constitutional purpose and is constituted to prevent fraud on Constitution. It may not be bound by the provisions of Indian Evidence Act, but it would not be correct for the superior courts to issue directions as to how it should appreciate evidence. Evidence to be adduced in a matter before a quasi-judicial body cannot be F restricted to admission of documentary evidence only. It may of necessity have to take oral evidence. Moreover the nature of evidence to be adduced would vary from case to case. The rights of a party to adduce evidence cannot be curtailed. It is one thing to say how a quasi-judicial body should appreciate evidence adduced before it in law but it is another thing to say that it must not allow adduction of oral evidence at all. It was furthermore not proper to G suggest that all such bodies should be brought within the purview of Article 235 of the Constitution of India or only judicial officers should be appointed. [111-E-H]

2. As judges, restraint should be exercised before making such observations which would have a far reaching effect. Such directions could H not have been, issued in a matter where the State had not been called upon to

make its comments. No empirical study as regards functioning of the Caste Scrutiny Committees was carried out. Such sweeping remarks without there being adequate materials on records were, thus, unwarranted. They are to a great extent contrary to and inconsistent with the directions issued by this Court in *Madhuri Patil**.[112-A-B] A

Kumari Madhuri Patil and Anr. v. *Addl. Commissioner, Tribal Development and Ors,** [1994] 6 SCC 241, referred to. B

3. The makers of the Constitution laid emphasis on equality amongst citizens. Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes an undue advantage of the said beneficent provision of the Constitution by obtaining the benefits of reservation and other benefits provided under the Presidential Order although he is not entitled thereto, he not only plays a fraud on the society but in effect and substance plays a fraud on the Constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect to contend that the State shall be helpless spectator in the matter. [114-F-H] C D

State of Maharashtra v. *Milind & Ors.*, [2001] 1 SCC 4, referred to.

4.1. The approach of the High Court is not correct as it proceeded on the premise that once the surname of Respondent tallied with the name of the tribe, which finds mention in one or the other entries of the schedule appended to the 1976 Order, the same must be treated to be sacrosanct and no enquiry in relation to the correctness of the said certificate can be gone into by any Committee. The observations and directions of the High Court, were not only contrary to the judgments of the Court but also fall short of the ground realities. [115-A-B] E F

Ram Saran v. *I.G. of Police, CRPF & Ors.*, (2006) 2 SCALE 131; *Employees State Insurance Corporation* v. *Distilleries & Chemical Mazdoor Union and Ors.*, (2006) 7 SCALE 171 and *Sandeep Subhash Parate* v. *State of Maharashtra & Ors.*, (2006) 8 SCALE 503, relied on.

Dadaji alias Dina v. *Sukhdeobabu and Ors.*, [1980] 1 SCC 621, held inapplicable. G

Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Anr. v. *State of Kerala and Anr.*, [1994] 1 SCC 359; *Gayatrilaxmi Bapurao Nagpure* v. *State of Maharashtra and Ors.*, [1996] 3 SCC 685; *Bank of India and Anr.* v. *Avinash D. Mandivikar and Ors.*, [2005] 7 SCC 690 and *State of* H

A *Maharashtra & Ors.* **v.** *Mana Adim Jamat Mandal* **(2006) 4 SCC 98, referred to.**

4.2. The High Court although allowed the writ petitions filed by Respondent herein, did not analyze the evidences relied upon by the Committee at all. It proceeded principally on the basis that no enquiry was permissible. B **Merit of the matter should be considered afresh by the High Court.**

[118-F, G]

5. While the matter was pending judgment, this Court received letters from Respondents urging the Court not to remit the matter back to the High C **Court. These letters were issued presumably having regard to the observations made during hearing that the High Court had not gone into the merit of the matters. Such practice of writing letters to the judges when the matters were pending judgment is deprecated. [119-A-B]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 789 of 2005.

D

From the final Judgment dated 28-7-2003 of the High Court of Judicature at Bombay, Nagpur Bench Nagpur in Writ Petition No. 2745/1998.

WITH

C.A. Nos. 5146, 5458 and 5459 of 2005.

E

S.K. Dholakia, S.S. Shinde, Mukti Chowdhary and Ravindra Keshavrao Adsure for the Appellants.

Arvind V. Savant, Sanjay V. Kharde, Chandana Ramamurthi, Sudhanshu Choudhari, Naresh Kumar, Manish Pitale, Chander Shekhar Ashri, V.B. Joshi,
F I. Ingle, Ramakant, R.S. Hedge, Savitri Pandey, Chandra Prakash, Rahul Tyagi, P.P. Singh, D.M. Nargolkar and V.N. Raghupathy, for the Respondents.

The Judgment of the Court was delivered by

S.B. SINHA, J. The jurisdiction of the Caste Scrutiny Committee and/
G or extent thereof falls for our consideration in these appeals which arise out of judgments and orders dated 28.07.2003, 04.10.2004 and 24.11.2004 passed by the Bombay High Court in Writ Petition Nos. 2745 of 1988, 3153 of 1996 and 3737 of 2001 respectively.

We may, however, notice the factual matrix of the matter from Civil
H Appeal No. 789 of 2005.

Respondent is said to be a member of the Scheduled Tribe being belonging to *Thakur community* as envisaged under Entry 44 of the list of the Scheduled Tribes pertaining to the State of Maharashtra issued in terms of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. A certificate showing that he belongs to the aforementioned tribe community was issued to him. Respondent obtained appointments and/or admissions in various institutions pursuant to or in furtherance of such certificate. However, the Scrutiny Committee constituted in terms of the decision of this Court in *Kumari Madhuri Patil and Anr.* v. *Addl. Commissioner, Tribal Development and Ors.*, [1994] 6 SCC 241, opined that he did not belong to the said community and in fact belongs to *Kshatriya Thakur* caste, whereupon his Scheduled Tribe certificate was cancelled.

Appeal preferred thereagainst before the Additional Commissioner, Tribal Development, Nagpur, was also dismissed.

Aggrieved by and dissatisfied with the said orders passed by the Appellate Authority as also the Caste Scrutiny Committee, writ petitions were filed before the Bombay High Court. Interim stay of the operation of the said orders having been granted, Respondent continued to remain in his service.

The learned Judges of the Division Bench of the High Court delivered separate judgments. Kharche, J. held :

> "...We, therefore, hold that the Caste Scrutiny Committee as well as the Commissioner were not justified and, as a matter of law, had no competence to go into the question by holding an enquiry that the petitioner belongs to caste "Thakur" of Kshatriya category....."

Kochar, J., however, in his separate but concurring judgment opined :

> "21. However, what are the parameters of such an enquiry is a crucial question before us. It cannot partake or cannot be a civil trial of a Civil Suit in a Civil Court of law. It has, however, to comply with the principles of law of Evidence and the natural justice in the matter of hearing and decision. The enquiry must accord greater emphasis and credence to the documentary evidence rather than oral evidence. If there is preponderance of documentary evidence, such as Caste Certificate, School Leaving Certificate of the pre-Presidential Orders, they must be accepted without any further probe or scrutiny. The document of the post-Presidential Orders, however, cannot be discarded

A only on the ground that it is of the post-Presidential period. That would be absurd and ridiculous. The Committee cannot proceed on the presumption that all such documents are fabricated and created for the purpose of getting reservation benefits. In such matters, there cannot be any other evidence to establish the caste claim. There is no blood group or DNA test to show any one's caste which is claimed. We cannot presume that all the parents and all the wards speak lie for all the time to earn the benefits out of their caste. No doubt, some might create a false record to snatch such benefits but cannot lead us to inform universally for all the times that every document is a fabricated and bogus document. Ordinarily and predominantly no high caste person would claim to belong to a caste of reserved category. There is no instance heard of that a Brahmin or a Jain or Kshatriya has recorded falsely that he belonged to an S.C./S.T. class top get the benefits of those categories. Such litigation, however, is amongst those whose caste/tribes have close similarity inter se e.g. Halba and Halba Koshti, Thakur-Ka-Ma etc. Koli and Mahadev Koli, Mana Gond Mana etc. etc. in any case, all these castes/tribes belong to a class of Haves - Not and they try to get some benefit for their livelihood....."

The learned Judge furthermore commented upon the so-called malfunctioning of the Scrutiny Committee and directed that it must get itself satisfied only on the basis of documentary evidence and no oral evidence would be admissible therefor, concluding :

"(i) No enquiry is permissible as to the entries in respect of the castes/tribes in the Schedules of the Presidential Orders. We have to take them as they are, as mandated in the Milind Katware's case, without adding or substracting anything from the entires.

(ii) The claimant has to prove his claim to belong to a particular caste/tribe to be able to get the benefits of the reservation policy.

(iii) The claimant must establish his right by producing proper documentary evidence.

(iv) The claimant must physically enter in witness box and swear on oath."

Referring to the object and purport of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes,

Other Backward Classes and Special Backward Category (Regulation of issuance and Verification of) Caste Certificate Act, 2000, it was directed :

(a) Considering the importance of the subject matter involving most valuable right of either employment or education which is wholly dependent upon the Caste/Tribe Certificates, this job of Caste/ Tribe Scrutiny should be assigned to trained Judicial Officers and not to bureaucrats who are not at all legally trained to decide and appreciate the evidence in correct perspective. Such Committees should comprise of the Judicial Officers of the District Judges cadre and not less. We have a large number of retired Judicial Officers who can be assigned this duty.

(b) All the Scrutiny Committees should be brought under the control and supervision and within the purview of Art. 235 of the Constitution of India. Their recruitments and appointments should be under the High Court like any other judicial posts."

It is not clear as to whether Kharche, J. agreed with the aforementioned directions of Kochar, J. or not.

We, however, with respect to the learned judges, record our disapproval to the observations made and directions issued in this behalf.

The Caste Scrutiny Committee is a quasi-judicial body. It has been set up for a specific purpose. It serves a social and constitutional purposes. It is constituted to prevent fraud on Constitution. It may not be bound by the provisions of Indian Evidence Act, but it would not be correct for the superior courts to issue directions as to how it should appreciate evidence. Evidence to be adduced in a matter before a quasi-judicial body cannot be restricted to admission of documentary evidence only. It may of necessity have to take oral evidence.

Moreover the nature of evidence to be adduced would vary from case to case. The rights of a party to adduce evidence cannot be curtailed. It is one thing to say how a quasi-judicial body should appreciate evidence adduced before it in law but it is another thing to say that it must not allow adduction of oral evidence at all.

It was furthermore not proper to suggest that all such bodies should be brought within the purview of Article 235 of the Constitution of India or only judicial officers should be appointed.

A As judges, we should exercise restraint before making such observations which would have a far reaching effect. Such directions could not have been, in our opinion, issued in a matter where the State had not been called upon to make its comments. No empirical study as regards functioning of the Caste Scrutiny Committees was carried out. Such sweeping remarks without there being adequate materials on records were, thus, unwarranted. They are to B a great extent contrary to and inconsistent with the directions issued by this Court in *Madhuri Patil* (supra). We would advert to this aspect of the matter a little later.

The short question which arises for consideration is as to whether the C Caste Scrutiny Committee could go into the validity or otherwise of the certificate granted by the authorities. The High Court relied upon a decision of this Court in *Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Anr.* v. *State of Kerala and Anr.*, [1994] 1 SCC 359 and some other decisions of this Court.

D We, with respect, do not agree with the conclusion of the High Court that no enquiry was permissible at all, once it is found that the person concerned in whose favour a certificate had been granted to be notified as a Scheduled Tribe.

The question in regard to the purport and object for which such E Committees are constituted came up for consideration before this Court in a large number of cases.

In *Kumari Madhuri Patil* (supra), this Court directed constitution of such Caste Scrutiny Committees with a view to streamline the procedure for issuance of social status certificates, their scrutiny and approval. This Court F observed :

> "...Since the Scheduled Tribes are a nomadic class of citizens whose habitat being generally hilly regions or forests, results in their staying away from the mainstream of the national life. Therefore, the State is G enjoined under our Constitution to provide facilities and opportunities for development of their scientific temper, educational advancement and economic improvement so that they may achieve excellence, equality of status and live with dignity. Reservation in admission to educational institutions and employment are major State policies to accord to the tribes, social and economic justice apart from other H economic measures. Hence, the tribes, by reason of State's policy of

reservation, have been given the exclusive right to admission into educational institutions or exclusive right to employment to an office or post under the State etc. to the earmarked quota. For availment of such exclusive rights by citizens belonging to tribes, the President by a notification specified the Scheduled Tribes or tribal communities or parts of or groups of tribes or tribal communities so as to entitle them to avail of such exclusive rights. The Union of India and the State Governments have prescribed the procedure and have entrusted duty and responsibility to Revenue Officers of gazetted cadre to issue social status certificate, after due verification....."

The Court held that Mahadeo Kolis are not Kolis. It entered into the merit of the matter including the certificates issued by the school authorities as also the findings of the Committee and the Appellate Authority. It was stated :

"...The Additional Commissioner as well, has minutely gone into all the material details and found that when a section of the society have started asserting themselves as tribes and try to earn the concession and facilities reserved for the Scheduled Tribes, the tricks are common and that, therefore, must be judged on legal and ethnological basis. Spurious tribes have become a threat to the genuine tribals and the present case is a typical example of reservation of benefits given to the genuine claimants being snatched away by spurious tribes. On consideration of the evidence, as stated earlier, both the Committee and the appellate authority found as a fact that the appellants are not tribe *'Mahadeo Koli'* entitled to the constitutional benefits. In *Subhash Ganpatrao Kabade* case, the approach of the Division Bench of the High Court appears to be legalistic in the traditional mould totally oblivious of the anthropological and ethnological perspectives and recorded their findings with unwarranted strictures on the approach rightly adopted by the Scrutiny Committee and the Additional Commissioner to be '(funny)' "obviously incorrect" and *"queer* reasoning". Admittedly the petitioner therein, in days preceding the Constitution, described himself in the service book as well as school leaving certificate as a Hindu Koli. The High Court also found that they were backward class but proceeded on the erroneous footing that Mahadeo Koli was introduced for the first time through 1976 Amendment Act and that, therefore, they were the genuine Scheduled Tribes entitled to the benefits. In view of the above, we cannot help

A holding that the reasoning of the High Court is wholly perverse and untenable."

In *State of Maharashtra* v. *Milind & Ors.* [2001] 1 SCC 4 it was held that Halba-Koshti having not been mentioned in the Scheduled Tribes Order, were not treated to be part of Halba, stating :

B

> "...No doubt, it is true, the stand of the appellant as to the controversy relating to "Halba-Koshti" has been varying from time to time but in the view we have taken on Question 1, the circulars/ resolutions/ instructions issued by the State Government from time to time, some times contrary to the instructions issued by the Central Government,
> C are of no consequence. They could be simply ignored as the State Government had neither the authority nor the competency to amend or alter the Scheduled Tribes Order. It appears taking note of false and frivolous claims being made by persons not entitled to claim such status, the Government of India addressed letters and issued
> D instructions between the period from 21-4-1969 to 1982 to impress that there should be strict inquiry before issuance of caste certificates to persons claiming Scheduled Caste/Scheduled Tribe status; strict scrutiny into the caste of the parent should be effected as a checkpoint...."

E The said decision, therefore, is an authority for the proposition that only because a claim is made by a person that he belongs to a member of a tribe notified to be Scheduled Tribe in terms of the provisions of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, no immunity in absolute terms can be claimed.

F The makers of the Constitution laid emphasis on equality amongst citizens. Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes an undue advantage of the said beneficent provision of the Constitution by
G obtaining the benefits of reservation and other benefits provided under the Presidential Order although he is not entitled thereto, he not only plays a fraud on the society but in effect and substance plays a fraud on the Constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect to contend that the State shall be helpless spectator in the matter.

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We, with respect, fail to appreciate the approach of the High Court as it proceeded on the premise that once the surname of Respondent tallied with the name of the tribe, which finds mention in one or the other entries of the schedule appended to the 1976 Order, the same must be treated to be sacrosanct and no enquiry in relation to the correctness of the said certificate can be gone into by any Committee. The observations and directions of the High Court, in our considered opinion, were not only contrary to the judgments of the Court but also fall short of the ground realities.

Mr. Arvind Savant, the learned Senior Counsel, would place strong reliance on a decision of this Court in *Palghat Jilla Thandan Samudhaya Samrakshna Samithi* (supra) and in particular paragraphs 18 and 19 thereof, which read as under :

> "18. These judgments leave no doubt that the Scheduled Castes Order has to be applied as it stands and no enquiry can be held or evidence let in to determine whether or not some particular community falls within it or outside it. No action to modify the plain effect of the Scheduled Castes Order, except as contemplated by Article 341, is valid.
>
> 19. The Thandan community in the instant case having been listed in the Scheduled Castes Order as it now stands, it is not open to the State Government or, indeed, to this Court to embark upon an enquiry to determine whether a section of Ezhavas/Thiyyas which was called Thandan in the Malabar area of the State was excluded from the benefits of the Scheduled Castes Order."

The said decision must be read in the light of factual matrix obtaining therein. Indisputably, Thandans are members Scheduled Tribe. An entry made under the Constitution (Scheduled Castes) Order, 1950 made in terms of Article 341 of the Constitution of India, as applicable to the State of Kerala, specified *Thandans* as Scheduled Tribe as Item No. 61 thereof. The State sought to modify the said order by issuing an order in the year 1984 stating:

> "...On October 15, 1984 the Government of Kerala issued an order which stated that, having reconsidered the matter in all its aspects, the 1979 order was cancelled and "Thandans throughout Kerala would be treated as members of Scheduled Caste as existing in the list of Scheduled Castes of this State as per Scheduled Castes *and Scheduled* Tribes Orders (Amendment) Act, 1976 and Community Certificate issued

A accordingly....."

The said order was modified by another order dated 24.11.1987, the operative portion whereof read is as under :

> "Government have again considered the matter in all its aspects
> B and in partial modification of the Government order read above as second paper Government now order that persons belonging to the Thandan Caste throughout Kerala would be treated as members of Scheduled Caste as existing in the list of Scheduled Castes of this State as per the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. While issuing such caste certificate the
> C Revenue authorities should clarify after proper verification that the person concerned belongs to Thandan caste and not Ezhava/Thiyya."

The question which arose for consideration before this Court was as to whether the persons named or called *Thandans* in Malabar area were intended to be covered by the 1976 Order. The findings of this Court, which we have
D noticed hereinbefore, must be judged on the touchstone of the factual matrix obtaining therein. It was held :

> "21. The enquiry that was ordered by the High Court in the order under appeal to "find out whether there was a community called
> E Thandan distinct from Ezhavas in Palghat District in areas other than in the erstwhile Chittur Taluk and also in any other place in erstwhile Malabar District" has proceeded to a conclusion on the basis of an interim order passed by this Court on January 16, 1989. It is not for the State Government or for this Court to enquire into the correctness of what is stated in the report that has been made thereon or to utilise
> F the report to, in effect, modify the Scheduled Castes Order. It is open to the State Government, if it so deems proper, to forward the report to the appropriate authority to consider whether the Scheduled Castes Order needs amendment by appropriate legislation. Until the Scheduled Castes Order is amended, it must be obeyed as it reads and the State
> G Government must treat Thandans throughout Kerala as members of the Scheduled Castes and issue community certificates accordingly."

This Court therein was not dealing with a case where a certificate had been granted wrongly to him although he was not entitled thereto.

H The question yet again came up for consideration before a Constitution

Bench of this Court in *Milind* (supra), wherein in no uncertain terms it was held that the as President had the benefit of consulting the States through the Governors of the States, no further enquiry as regards the correctness of the entries in the order was permissible in law. The Court further held :

> "2. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it."

Reliance has also been placed on *State of Maharashtra and Ors.* v. *Mana Adim Jamat Mandal,* [2006] 4 SCC 98. The question which arose for consideration therein was as to whether the decision rendered by this Court in *Dadaji alias Dina* v. *Sukhdeobabu and Ors.,* [1980] 1 SCC 621 was overruled by a Constitution Bench of this Court in *Milind* (supra). It was held to be so. The said decision has no application whatsoever.

Reliance has also been placed in *Gayatrilaxmi Bapurao Nagpure* v. *State of Maharashtra and Ors.,* [1996] 3 SCC 685 wherein this Court referring to *Madhuri Patil* (supra) on the fact situation obtaining therein opined :

> "17. Applying the above test to the facts of the present case, we are satisfied that the Committee failed to consider all the relevant materials placed before it and did not apply its mind to an important document "Sl. No. 9" which led the Committee ultimately to record a finding against the appellant. By a wrongful denial of the caste certificate to the genuine candidate, he/she will be deprived of the privileges conferred upon him/her by the Constitution. Therefore greater care must be taken before granting or rejecting any claim for caste certificate.
>
> 18. The High Court without appreciating the probative value of the documents placed before it has dismissed the writ petition filed by the appellant by simply accepting the conclusions reached by the second respondent Committee. Undoubtedly, in cases of this type, the burden heavily lies on the applicant who seeks such a certificate. That does not mean that the authorities have no role to play in finding out the correctness or otherwise of the claim for issue of a caste certificate. We are of the view that the authorities concerned must also play a role in assisting the Committee to arrive at a correct decision. In this case, except the documents produced by the appellant, nothing has

A been produced by the authorities concerned to arrive at a different conclusion."

The said decision, therefore, is also an authority for the proposition that the Committee can go into the question as to whether a caste certificate has rightly been issued or not. The authorities concerned were also found to B have some role to play in finding out the correctness or otherwise of the claim for issue of a caste certificate.

We may notice that in *Bank of India and Anr.* v. *Avinash D. Mandivikar and Ors.*, [2005] 7 SCC 690, a two-Judge Bench of this Court opined that the employee concerned having played fraud for obtaining an appointment, should C not be allowed to get the benefit thereof. [See also *Ram Saran* v. *I.G. of Police, CRPF & Ors.* (2006) 2 SCALE 131, *Employees State Insurance Corporation* v. *Distilleries & Chemical Mazdoor Union and Ors.*, (2006) 7 SCALE 171 and *Sandeep Subhash Parate* v. *State of Maharashtra & Ors.*, (2006) 8 SCALE 503.

D

While there are decisions and decisions in regard to the ultimate relief granted in each case, we see no authority laying down a law that under no circumstances an enquiry would be impermissible in law.

A serious attempt has been made before us to argue on the merit of E the matter.

The learned Senior Counsel made endeavours that we should go into the merit of the matter and set aside the order of the Caste Scrutiny Committee, as has been done by the High Court. We decline to do so. The High Court although allowed the writ petitions filed by Respondent herein, did not F analyze the evidences relied upon by the Committee at all. It, as noticed hereinbefore, proceeded principally on the basis that no enquiry was permissible.

We, therefore, are of the opinion that merit of the matter should be considered afresh by the High Court. We would, however, request the High G Court to consider the desirability of disposing the matters as expeditiously as possible and preferably within a period of two months from the date of receipt of a copy of this order. We must observe that we have not gone into the merit of the matter and, thus, all contentions of the parties including the question of back-wages, shall remain open. The appeals are allowed.

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While the matter was pending judgment, we received letters from Respondents urging us not to remit the matter back to the High Court. These letters were issued presumably having regard to the observations made by us during hearing that the High Court had not gone into the merit of the matters. We deprecate the practice of writing letters to the judges when the matters were pending judgment. At one point of time, we thought to initiate the proceedings against Respondents under the Contempt of Courts Act, 1971; but we refrain ourselves from doing so. We are, however, of the opinion that Respondents should bear and pay the costs of Appellants which is quantified at Rs.25,000/- (Rupees twenty five only) in each case. We direct accordingly.

CIVIL APPEAL NO.5459 of 2005 :

Mr. Arvind V. Savant, the learned Senior Counsel, states that as the entire matter is being remitted to the High Court, he would not press this appeal, leaving the contentions raised therein open. The appeal is dismissed. No costs.

D.G. Appeals allowed.