

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.12741 OF 2017
(Arising out of SLP(C) No.5042 of 2014)

STATE OF KERALA & ORS.

APPELLANT(s)

VERSUS

P.S.VIJAYAN & ORS.

RESPONDENT(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties and have gone through the judgment and order dated 1st January, 2013 passed by the Kerala High Court in Misc. First Appeal No.56 of 2005.

In the impugned judgment and order dated 1st January, 2013, the issue related to the cancellation of the caste certificate granted to Respondent Nos. 1 to 5. The High Court has proceeded, in our opinion, primarily on the basis of Section 11 of the Kerala (Scheduled Castes & Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (for short "the Act").

Section 11 of the Act reads as follows:

"Cancellation of false community certificate.-
(1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes or the Scheduled Tribes has obtained a false community certificate to the effect that either himself or his children belongs or belong to such Caste or the Tribe, the Scrutiny Committee may either suo motu or on a

written complaint or report by any person or authority, call for the records and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by order, cancel the certificate after giving the person concerned an opportunity of making a representation, if any.

(2) The powers of the nature referred in sub-section (1) may also be exercised by the Government.

(3) The Scrutiny Committee while performing its functions for verification and cancellation of community certificates shall follow such procedure as may be prescribed."

The High Court concerned itself with the interpretation of the expression "obtained fraudulently" appearing in sub-section (1) of Section 11 of the Act. On an interpretation given to this expression, the High Court came to the conclusion that the caste certificate obtained by Respondent Nos.1 to 5 had not been obtained fraudulently. On this basis, the decision taken by the Caste Scrutiny Committee was set aside.

The High Court has also faintly adverted to the procedure followed by the Caste Scrutiny Committee, but has not given any detailed reasoning on the question of the caste of Respondent Nos.1 to 5.

The High Court was exercising jurisdiction under Section 12(3) of the Act which is in the nature of the first appeal and it would have been appropriate if the High Court had considered all the facts of the case and then rendered its decision.

Be that as it may, we have gone through the judgment of this Court in Chairman and Managing Director FCI and Ors. Vs. Jagdish Balaram Bahira and Ors. [2017 (7) SCALE 395]. In that decision, this Court was considering the interpretation of the provisions 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. Relevant provisions of the said Act have been extracted in the judgment delivered by this Court and on a perusal thereof, we find that the expressions used in the Maharashtra statute are more or less similar to the provisions of the Act providing that a caste certificate can be cancelled if it has been obtained fraudulently or by fraudulent means.

While considering fraudulent means of obtaining a caste certificate, this Court observed in paragraph 45 of the Report that if the claim to belong to the reserved category is found to be untrue, the caste certificate has to be cancelled on the ground that it has been obtained falsely. The grant to the benefit to the candidate is fraudulent because the candidate has obtained the benefit reserved exclusively for a specified caste, tribe or class to which he or she is not entitled.

In the present case, the allegation is that Respondent Nos.1 to 5 have obtained a caste certificate belonging to a particular caste. The ratio laid down by this Court in the decision referred to above fully applies to the facts of the case. The expression "obtained fraudulently" is required to be given wide meaning which means that a certificate obtained by making a false statement or mis-representation to the concerned authority has been obtained fraudulently.

That being so, we are of the view that the High Court was in error in giving a narrow interpretation of Section 11 of the Act and considering the expression "obtained fraudulently" in a literal manner. This literal interpretation is no longer valid in view of the decision rendered by this Court and referred to above.

Since the High Court does not appear to have fully gone into the merits of the claim made by Respondent Nos.1 to 5, which it should have in view of its first appellate jurisdiction being exercised under the Act, we set aside the order passed by the High Court and remand the matter to the High Court for fresh consideration on the merits of the cancellation of the caste certificate granted to Respondent Nos.1 to 5.

The parties will appear before the High Court for appropriate directions on 23rd October, 2017.

The appeal stands disposed of.

.....J.
(MADAN B. LOKUR)

.....J.
(DEEPAK GUPTA)

NEW DELHI
SEPTEMBER 12, 2017

ITEM NO.2

COURT NO.4

SECTION XI -A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NO.12741 OF 2017
(Arising out of SLP(C) No.5042 of 2014)

STATE OF KERALA & ORS.

Petitioner(s)

VERSUS

P.S.VIJAYAN & ORS.

Respondent(s)

Date : 12-09-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s)

Mr. C. K. Sasi, AOR

For Respondent(s)

Mr. C.N. Sreekumar, Adv.

Mr. T. G. Narayanan Nair, AOR

Mr. Amit Sharma, Adv.

Ms. B. Sunita Rao, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed
order.

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed order is placed on the file)

(KAILASH CHANDER)

COURT MASTER