

पत्र संख्या-11/आ०-विविध-07/2021 सा०प्र०.16739

बिहार सरकार
सामान्य प्रशासन विभाग



Urgent
Sira Juddin Ansari
Gumasta
Sira Juddin Ansari
Gumasta

मो० सिराजुद्दीन अंसारी,
सरकार के अवर सचिव।

अपर मिशन निदेशक,
बिहार प्रशासनिक सुधार मिशन सोसाइटी,
पटना।

पटना-15, दिनांक-31/12/21

विषय :- भूलवश निर्गत किये गए प्रमाण-पत्रों को निरस्त करने हेतु मार्गदर्शन उपलब्ध कराने के संबंध में।

महोदय,

निदेशानुसार उपर्युक्त विषयक आपके पत्रांक-1994 दिनांक-18.11.2021 के संबंध में कहना है कि भूलवश अथवा त्रुटिपूर्ण तरीके से निर्गत किये गए जाति प्रमाण-पत्र अथवा आवासीय प्रमाण-पत्र इत्यादि निर्गत हो जाने के पश्चात् इसे रद्द करने के संबंध में पूर्व में कोई दिशा-निर्देश निर्गत नहीं है, किन्तु प्रमाण-पत्र निर्गत करने से पूर्व निर्गत करने वाले सक्षम प्राधिकार का संतुष्ट एवं आश्वस्त होना आवश्यक शर्त है, इसलिए भूलवश अथवा त्रुटिपूर्ण तरीके से निर्गत किये गए प्रमाण-पत्रों को निम्नवत् निरस्त किया जा सकता है :-

- भूलवश अथवा त्रुटिपूर्ण तरीके से निर्गत किये गए प्रमाण-पत्रों को सकारण आदेश के माध्यम से उन्हें निर्गत की तिथि से ही निरस्त किया जाय।
- सकारण आदेश के वस्तुस्थिति की जानकारी उच्चतर प्राधिकार को भी दी जाय।
- रद्द किये जाने वाले प्रमाण-पत्र से संबंधित सकारण आदेश की प्रति आवेदक को तामिला करायी जाय।

विश्वासभाजन

(मो० सिराजुद्दीन अंसारी)

सरकार के अवर सचिव।

बिहार प्रशासनिक सुधार मिशन सोसाइटी
(सामान्य प्रशासन विभाग)

ज्ञापांक-
प्रतिलिपि:-

बि.प्र.सु.मि.सो./विविध-03/2012(खंड) सो०-64.....दिनांक-11/01/2022
निदेशानुसार सभी जिला पदाधिकारी को सूचनार्थ प्रेषित। अनुरोध है कि सभी संबंधित को उपर्युक्त से अवगत कराने की भी कृपा की जाए।

13
03/01/22
प्रतिलिपि:-

श्री अशोक कुमार, वरीय तकनीकी निदेशक NIC पटना को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

प्रशासनिक पदाधिकारी

बिहार प्रशासनिक सुधार मिशन सोसाइटी

पत्र संख्या-11/आ0 न्याय-09/2023 सा0प्र0.....4053

बिहार सरकार
सामान्य प्रशासन विभाग

प्रेषक,

मो0 सिराजुद्दीन अंसारी
सरकार के अवर सचिव।

सेवा में,

1. अपर मिशन निदेशक,
बिहार प्रशासनिक सुधार मिशन सोसायटी,
पटना।
2. सभी जिला पदाधिकारी,
बिहार।

पटना-15, दिनांक-.....28.2.23

विषय :- भूलवश निर्गत किए गए प्रमाण-पत्रों को निरस्त करने हेतु निर्गत मार्गदर्शन को रद्द करने के संबंध में।

महाशय,

निदेशानुसार उपर्युक्त विषय के संबंध में कहना है कि सामान्य प्रशासन विभाग के पत्रांक-16739 दिनांक-31.12.2021 द्वारा भूलवश निर्गत किए गए प्रमाण-पत्रों को निरस्त करने हेतु प्रक्रिया का निर्धारण करते हुए बिहार प्रशासनिक सुधार मिशन सोसायटी एवं सभी जिला पदाधिकारी को संसूचित किया गया है।

सम्यक विचारोपरांत इस पत्र के द्वारा निर्गत प्रावधान को माननीय उच्च न्यायालय, पटना द्वारा सी0डब्ल्यू0जे0सी0 संख्या-19084/2021 बैद्यनाथ सिंह बनाम राज्य सरकार एवं अन्य तथा सी0डब्ल्यू0जे0सी0 संख्या-3430/2022 रूपा कुमारी बनाम राज्य सरकार के मामले दिनांक-27.02.2023 को पारित आदेश के आलोक में वापस लेने का निर्णय लिया गया है।

ऐसे मामले सामान्य प्रशासन विभाग के संकल्प संख्या-3887 दिनांक-08.11.2007 एवं संकल्प संख्या-1567 दिनांक-05.02.2014 में वर्णित प्रावधानों के अधीन निष्पादित किये जा सकेंगे।

विश्वासभाजन



(मो0 सिराजुद्दीन अंसारी)
सरकार के अवर सचिव।

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3430 of 2022

Rupa Kumari wife of Shani Deval Singh, resident of Village and P.O. Nahauna, P.S. Sasaram Muffasil, District-Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram, District-Rohtas at Sasaram.
4. The District Panchayat Raj Officer, Rohtas at Sasaram, District-Rohtas at Sasaram.
5. The Block Development Officer, Sasaram, District-Rohtas at Sasaram.
6. The Circle Officer, Nokha, District-Rohtas at Sasaram.
7. Md. Saddam Hussain, son of Razzaque Mian, Resident of Village-Bishunpura, P.O. Nahauna, P.S. Sasaram Muffasil, District-Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam, Advocate
	:	Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr.P.K. Verma (AAG 3)
	:	Mr. Suman Kr. Jha, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 02-03-2023

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.
2. The present writ petition has been filed for directing the respondents to place on record, the order passed by the Circle Officer, Nokha, Rohtas at Sasaram, whereby and whereunder he has cancelled the caste certificate, issued in favour of the petitioner on 14.09.2021 and quash the same, after the same is placed on record.



3. Before coming to the merits of the case, it may be pointed out that this Court, on an earlier occasion, had taken note of the illegal letter dated 31.12.2021, issued by the Additional Secretary to the Government, General Administration Department, Bihar, Patna, whereby guidelines have been issued to the effect that in case, by mistake or in a flawed manner, caste certificates are issued, the same should be cancelled with effect from the date of their issuance by means of a reasoned order, which admittedly is in teeth of the judgment rendered by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and others*, reported in (1994) 6 SCC 241, whereby and whereunder all the State Governments have been directed to constitute a Caste Scrutiny Committee, which is the only body empowered to adjudicate upon the disputes arising out of issuance of caste certificate. Thus, this Court was/ is of the view that the respondent- authorities are not empowered or authorized to cancel caste certificate, issued by them, without resorting to the remedy available under the law i.e. by way of approaching the Bihar State Caste Scrutiny Committee.

4. In view of the aforesaid judgment rendered by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil*



(supra), the learned counsel for the respondent- State submits that the respondents have realized their mistake, hence, the aforesaid letter dated 31.12.2021 has been withdrawn by an order issued by the General Administration Department dated 28.02.2023, which has been produced before this Court and is kept on record.

5. Now coming to the merits of the present case, it has been submitted by the learned counsel for the petitioner that the respondent no. 6 i.e. the Circle officer, Nokha, Rohtas at Sasaram has cancelled the caste certificate of the petitioner, issued in his favour on 14.09.2021. The petitioner has also prayed for quashing of the letter dated 04.01.2022, issued by the Circle Officer, Nokha (Rohtas), wherein it has been stated that the caste certificate of the petitioner has already been cancelled w.e.f. 14.09.2021. The learned counsel for the petitioner has not only referred to the aforesaid judgment rendered by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil (supra)* but also has referred to a judgment rendered by the learned Division Bench of this Court *dated 21.06.2022*, passed in *C.W.J.C. no. 19084 of 2021 (Baidhnath Singh v. The State of Bihar and others)*, relevant paragraphs thereof being paragraphs no. 9 to 13, are reproduced hereinbelow :-



“ 9. It would be pertinent to note here that subsequently some modification was made in the constitution of the committee referred to above vide judgment reported in (1997) 5 SCC 437 (Kumari Madhuri Patil and Another vs. Additional Commissioner, Tribal Development and Others)

10. In *Farzana Sabaff vs. the State of Bihar & Ors.* since reported in 2014 (3) BBCJ 631, a dispute relating to disqualification on the ground of invalid caste certificate came before this Court. It would be manifest from the perusal of the Para-11 of the judgment of the said case that in the counter affidavit the State had admitted that a committee was duly constituted pursuant to the direction no.4 given by the Hon'ble Supreme Court in *Kumari Madhuri Patil (supra)*. Para 11 of the judgment in *Farzana Sabaff (supra)* is extracted hereunder for ready reference:

“11. Counter affidavits have been filed on behalf of the respondent nos. 2 and 3 and also the respondent no. 4 defending the impugned order passed by the Collector. On the issue of constitution of scrutiny committee, raised by the petitioner during earlier hearings, a counter affidavit was also filed on behalf of the Principal Secretary, General Administration Department, Government of Bihar stating



that the State Government in compliance of the direction of the Apex Court contained in Civil Appeal No. 5854 of 1994 (Kumari Madhuri Patil v. Additional Commissioner, Scheduled Tribes), has already constituted a Directorate/ Committee dealing with the cases of Scheduled Caste and Scheduled Tribes vide memo no. 3887 dated 08.11.2007 However, on a question being asked to learned Additional Advocate General No. 11 as to whether a Committee of Directorate formed for concerned purpose for scrutiny of the certificate with respect to the Scheduled Caste/Scheduled Tribes would be able to verify the certificate granted to the Backward Classes or Extremely Backward Classes, an apparent lacunae appeared and adjournment was sought for rectification specially in view of the direction no. 4 given by the Apex Court in Kumari Madhuri Patil (supra) that for scrutiny of Backward Classes certificate the committee would have to be constituted consisting an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, the Director, Social Welfare/ Tribal (sic) welfare/ Backward Class Welfare, has not been included in the committee. Thereafter,



a supplementary counter affidavit has been filed on behalf of the Principal Secretary, General Administration Department, Government of Bihar appending therewith another resolution dated 05.02.2014 as Annexure A with a statement that now a separate committee has been formed for making inquiry with respect to caste certificates granted to the Backward Classes and Extremely Backward Classes There is a direction in Annexure A for immediate publication of this decision of the Government in the official Extra-Ordinary Gazette.”

11. In the State of Bihar, the caste certificate is issued by Revenue Authorities. After the judgment of the Hon'ble Supreme Court in Kumari Madhuri Patil (Supra), it has been settled that caste certificate duly issued by the Revenue Authorities who have been delegated with such power cannot be cancelled by the authority who has issued the caste certificate.

12. In the above view of the matter, it would be evident that the Circle Officer was not the competent authority to cancel the caste certificate of the petitioner rather it was the Scrutiny Committee constituted by the State Government which was



empowered to do so. In these circumstances, the impugned order dated 16.10.2021 passed by the Circle Officer, Dighwara, Saran as contained in Annexure-5 to the present application is hereby set aside.

13. It would be open to the Circle Officer or any other authority of the State to approach the Scrutiny Committee formed pursuant to the direction issued by the Hon'ble Supreme Court in Kumari Madhuri Patil (supra) for verification of the caste certificate of the petitioner and cancellation thereof. In case, such a dispute is raised before the Scrutiny Committee, it shall be required to examine the matter and decide the same in accordance with law as early as possible and preferably, within a period of three months."

6. *Per contra*, the learned counsel for the respondents has though opposed the prayer of the petitioner, however, he has submitted that the Caste Scrutiny Committee has already been constituted in the State of Bihar and to that effect, the General Administration Department has issued a resolution dated 05.02.2014, by which a Caste Scrutiny Committee has been constituted and is functioning, at the moment, hence, the learned counsel for the respondent- State submits that the State is not



averse to the idea of the present case being relegated to the Bihar State Scrutiny Committee.

7. Having regard to the facts and circumstances of the case and considering the law laid down by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil (supra)* as also by the learned Division Bench of this Court in the case of *Baidhnath Singh (supra)*, the order dated 04.01.2022 and any other order passed with regard to cancellation of the caste certificate of the petitioner, either by the Circle Officer or for that matter, by the District Magistrate concerned, is set aside, however, the respondent- State is granted liberty to approach the Bihar State Caste Scrutiny Committee, constituted pursuant to the direction issued by the Hon'ble Apex Court in the case of *Kumari Madhuri Patil (supra)*, for verification of the caste certificate of the petitioner and if need be, cancellation thereof.

7. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	09.05.2023
Transmission Date	NA

