Kumari Madhuri Patil vs Addl. Commissioner on 2 September, 1994

Equivalent citations: 1995 AIR 94, 1994 SCC (6) 241

Author: K. Ramaswamy

Bench: K. Ramaswamy, N Venkatachala

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           PETITIONER:
KUMARI MADHURI PATIL

        Vs.

RESPONDENT:
ADDL. COMMISSIONER

DATE OF JUDGMENT02/09/1994

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
VENKATACHALA N. (J)

CITATION:
 1995 AIR   94            1994 SCC  (6) 241
 JT 1994 (5)   488        1994 SCALE  (3)935


ACT:



HEADNOTE:



JUDGMENT:
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The Judgment of the Court was delivered by K. RAMASWAMY, J.- Leave granted.

2. The appellants are Suchita and Madhuri, daughters of Laxman Pandurang Patil. Their grandfather was Panduranga Patil. Laxman Patil was admitted in the school in the year 1943. In his school admission register and his school and college certificates his caste was shown as 'Hindu Koli'. Suchita had applied through her father, Laxman Patil to the Tahsildar, Andheri on 30-11-1989 for issuance of caste certificate as 'Mahadeo Koli' a Scheduled Tribe. The Sub- Divisional Officer, Bombay Suburban District by his proceeding dated 22-6-1989 refused to issue caste certificate

sought for by Ms Suchita and informed her that she was not a Scheduled Tribe 'Mahadeo Koli'. She filed an appeal before the Additional Commissioner, Konkan Division, Bombay. As she had applied for admission into the MBBS course and the time for her admission was running out, she filed Writ Petition No. 3516 of 1990 in the High Court to direct the Additional Commissioner to dispose of her appeal and to further direct to the Dean of D.YC. Naik Medical College to permit her to appear for interview and admit her in the college if she was found fit. It is not in dispute that she filed a copy of the judgment in Subhash Ganpatrao Kabade v. State Of Maharashtra1, wherein 'Koli' was held to be 'Mahadeo Koli', before the Additional Commissioner and also in the High Court. Because of the directions of the High Court she was admitted in the MBBS course and she is continuing her studies. The Additional Commissioner directed the Tahsildar to issue the certificate and accordingly issued to Miss Suchita the certificate as Scheduled Tribe. Miss Suchita applied to the Verification Committee for confirmation of her status as Scheduled Tribe. Madhuri applied for the issuance of Scheduled Tribe certificate before the Divisional Executive Magistrate, Greater Bombay, enclosing the order passed by the High Court in Writ Petition No. 3516 of 1990, dated 4-12-1990, in favour of her sister Suchita, which was issued on 23-8-1990 declaring her status to be 'Mahadeo Koli' and then she got the admission into BDS in the year 1992. Thereafter, she applied to the Verification Committee for confirmation. The proceeding by the Verification Committee was jointly conducted into the claims of the appellants, initiated on 8-12-1989, the father of the appellants was called upon to furnish in the prescribed form the detailed information regarding his family background, ancestry; and anthropology of 'Mahadeo Koli', Scheduled Tribe, to verify the veracity of his claim of status as ST.

3. 'Mahadeo Koli' was declared to be a Scheduled Tribe by Bombay Province as early as 1933 and the President of India declared in 1950 under Article 342, in consultation with the Government of Bombay (Maharashtra) and as amended from time to time. Laxman submitted the particulars along with his school and college certificates, junior college certificate and school certificates of the appellants, the certificates of his sister and appellants' maternal aunt, Jyotsana Pandurang Patil dated 3-3-1978 and maternal uncle Balakrishna Pandurang Naik dated 22-10-1954 and a statement by the Caste Association. The Committee in their order dated 26-6-1992 considered the entire evidence placed before them, the particulars furnished by their father in the pro forma on their ancestry and other anthropological particulars and after hearing their counsel, found that the appellants are 'Koli' by caste which is recognised as Other Backward Class, i.e., OBC in the State and that they are not 'Mahadeo Koli', the Scheduled Tribe and their claim for that social status was accordingly declared untenable. The certificates issued by the respective Executive Magistrates were cancelled and confiscated. Their appeal provided under the Rules too was heard by the Additional Commissioner in Caste Appeal No. 11 of 1992 who by an elaborate order dated 30-4-1993 found that the certificate issued in favour of Balakrishna Pandurang Naik, maternal uncle, was from a Magistrate, Greater Bombay, who had no jurisdiction and was issued social status certificate without proper scrutiny. The certificate issued to Jyotsana by the Judicial Magistrate was on the basis of the school leaving certificate, ration card etc. and that, therefore, it does not provide any probative value to their status as Scheduled Tribe, the entries in school and college certificates of the appellants are not conclusive.

4.It is obvious that Judicial Magistrate has no jurisdiction to issue caste certificate and it is a void certificate. The entries in the school certificate of the father of the appellants, Laxman Patil, being pre-independence period, it bears "great probative value" wherein he declared himself to be 'Hindu Koli' which is now recognised as a backward class. The caste affirmation certificate issued by the Samaj "Caste Association" consists of these very communities who seek to get the status as Scheduled Tribes. It also does not, therefore, bear any probative value. School certificates and college certificates in favour of the appellants are the subject of enquiry, therefore,do notbear any value and independently their status is to be considered.

5.The Committee as well as the Additional Commissioner relied upon a reportof expert committee which had gone into the sociology, anthropology and ethnology of the Scheduled Tribes including 'Mahadeo Koli' which formed the basis for the pro forma questionnaire prepared by the Government and as given to and answered by the father of the appellants. On the basis of the information furnished by the father of the appellants and the anthropological and ethnological findings in that behalf, the Additional Commissioner, in our view rightly, held that an argument of social mobility and modernisation often alluringly put forth to obviate the need to pass the affinity test is only a convenient plea to get over the crux of the question. Despite the cultural advancement, the genetic traits pass on from generation to generation and no one could escape or forget or get them over. The tribal customs are peculiar to each tribe or tribal communities and are still being maintained and preserved. Their cultural advancement to some extent may have modernised and progressed but they would not be oblivious to or ignorant of their customary and cultural past to establish their affinity to the membership of a particular tribe. The Mahadeo Koli, a Scheduled Tribe declared in the Presidential Notification, 1950, itself is a tribe and is not a sub-caste. It is a hill tribe, may be like 'Koya' in Andhra Pradesh. Kolis, a backward class, are fishermen by caste and profession and reside mostly in Maharashtra coastal area. Kolis have different sub-castes. Mahadeo Kolis reside in hill regions, agriculture, agricultural labour and gathering of minor forest produce and sale thereof is their avocation. Therefore, the cancellation of the social certificate issued by the Executive Magistrates concerned by the Scrutiny Committee was legal.

6. The appellants' Writ Petition No. 1849 of 1993 was dismissed by the Division Bench by its order dated 17-8-1993 with brief reasons. Shri Ganesh, the learned counsel for the appellants contended that in the affidavit filed by the appellant's father before the Verification Committee he has explained the circumstances in which he came to be described as Hindu Koli. Prior to 1950, there was no necessity to describe sub-caste. For the first time in 1976 under the Scheduled Castes Scheduled Tribes (Amendment) Act, 1976, Mahadeo Koli was introduced as a Scheduled Tribe in the State of Maharashtra. The certificates issued to the maternal uncle Balakrishna Naik as Mahadeo Koli in the year 1954 and entries in his service record and to maternal aunt, Jyotsana in the year 1979 probabilise the omission to describe Laxman Patil as Mahadeo Koli, though they, as a fact, belong to Scheduled Tribe. In the school registers the appellants had enjoyed the status as Scheduled Tribe which provides probative value. The Committee, the Additional Commissioner and the High Court had not appreciated the evidence in proper perspective before declining to confirm the social status of the appellants as Scheduled Tribes and the High Court ought to have gone into these aspects as was done in Subhash Ganpatrao Kabade casel. it is further contended that Suchita has completed her final year course of study. Madhuri is in midway and that, therefore, justice

demands that their education should not be dislocated with the denial of the social status as Scheduled Tribes. The sheet-anchor for the counsel's argument is the judgment of the Division Bench of the Bombay High Court in Subhash Ganpatrao Kabade case'. We find no force in the contentions.

7. From the counter-affidavit filed by the State which has not been disputed by filing any rejoinder and as is borne out from the public notification issued by the President in the year 1950 in exercise of the power under Article 342 read with Article 366(25) of the Constitution that Mahadeo Koli is declared as a Scheduled Tribe. Article 366(25) defines Scheduled Tribes, as meaning such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are declared under Article 342 to be Scheduled Tribes for the purposes of the Constitution. Article 342 gives power to the President to specify the tribe with respect to any State or Union Territory, after consultation with the Governor where it is a State, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall, for the purposes of the Constitution, be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

8. In Marri Chandra Shekhar Rao v. Dean, Seth G.S. Medical College2, this Court declared that subject to the law made by Parliament under sub-section (2) of Section 342, the tribes or tribal communities or parts of or groups within tribes or tribal communities specified by the President by a public notification shall be final for the purpose of the Constitution. They are the tribes in relation to that State or Union Territory and that any tribe or tribes or tribal communities or parts of or groups within such tribe or tribal communities, not specified therein in relation to that State, shall not be Scheduled Tribes for the purpose of the Constitution. The father of one Chandra Shekhar Rao who hailed from Tenali in Guntur District of Andhra Pradesh is a Settibalija by caste which is recognised as a backward class. His father obtained a certificate from the Tahsildar, Tenali that he belonged to Scheduled Tribe and had got an appointment in a public undertaking of Bombay. On the basis of social status certificate obtained by his father and entries in service record of his father, he applied for admission into medical 2 (1990) 3 SCC 130: (1990) 14 ATC 671 college as Scheduled Tribe. When he was not admitted, he filed the writ petition in this Court under Article 32 seeking a declaration that Settibalija though was not declared to be Scheduled Tribe in Maharashtra it was a Scheduled Tribe for the purpose of the Constitution and that he was entitled to the admission into the medical college on the basis of his social status as a Scheduled Tribe. This Court did not uphold the contention. This Court held that the declaration by the President by a public notification in relation to a State in consultation with the Governor of that State is conclusive and court cannot give such a declaration. The same view was reiterated by another Constitution Bench in Action Committee on issue of Caste Certificate to SCs and STs in the State of Maharashtra v. Union of India3.

9. The Preamble to the Constitution promises to secure to every citizen social and economic justice, equality of status and of opportunity assuring the dignity of the individual. The Scheduled Tribes are inhabitants of intractable terrain regions of the country kept away from the mainstream of national life and with their traditional moorings and customary beliefs and practices, they are largely governed by their own customary code of conduct regulated from time to time with their own rich

cultural heritage, mode of worship and cultural ethos. The Constitution guarantees to them, who are also Indian citizens, equality before law and the equal protection of law. Though Articles 14 and 15(1) prohibit discrimination among citizens on certain grounds, Article 15(4) empowers the State to make special provisions for advancement of Scheduled Castes and Scheduled Tribes. Article 16(1) requires equality of opportunity to all citizens in matters of appointments to an office or a post under the Union or a State Government or public undertakings etc. But Article 16(4) empowers the State to make provision for reservation of appointments or posts in favour of classes of citizens not adequately represented in the services under the State. Article 46 enjoins the State by mandatory language employed therein, to promote with special care the educational or economic interest of the Scheduled Tribes and Scheduled Castes and to protect them from "social injustice" and "all forms of exploitation". Article 51-A(h) enjoins every citizen to develop scientific temper, humanism and the spirit of inquiry and reform. Again Article 51-A(h) requires every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. It is, therefore, a fundamental duty of every citizen to develop scientific temper and humanism and spirit of inquiry to reform himself in his onward thrust or strive to achieve excellence in all spheres of individual and collective activity. 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 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 3 (1994) 5 SCC 244 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 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. It is common knowledge that endeavour of States to fulfil constitutional mandate of upliftment of Scheduled Castes and Scheduled Tribes by providing for reservation of seats in educational institutions and for reservation of posts and appointments, are sought to be denied to them by unscrupulous persons who come forward to obtain the benefit of such reservations posing themselves as persons entitled to such status while in fact disentitled to such status. The case in hand is a clear instance of such pseudo-status. Kolis have been declared to be OBC in the State of Maharashtra being fishermen, in that their avocation is fishing and they live mainly in the coastal region of Maharashtra. Mahadeo Kolis are hill tribes and it is not a sub-caste. Even prior to independence, the Maharashtra Government declared Mahadeo Koli to be criminal tribe as early as 29-5-1933 in Serial No. 15 in List II thereof. In 1942 Resolution in Serial No. 15 in Schedule B of the Bombay resolution Mahadeo Koli tribe was notified as a Scheduled Tribe. It was later amended as Serial No. 13. In the Presidential Scheduled Castes/Scheduled Tribes Order, 1950, it was reiterated. A slight modification was made in that behalf by the Presidential Notification dated 29-10-1956. In the 1976 Amendment Act, there is no substantial change except removing the area restriction. Thus Mahadeo Koli, a Scheduled

Tribe continued to be a Scheduled Tribe even after independence. The Presidential Notification, 1950 also does recognise by public notification of their status as Scheduled Tribes. The assumption of the Division Bench of the Bombay High Court in Subhash Ganpatrao Kabade case', that Mahadeo Koli was recognised for the first time in 1976 under Amendment Act, 1976, as Scheduled Tribe is not relatable to reality and an erroneous assumption made without any attempt to investigate the truth in that behalf. Presidential declaration, subject to amendment by Parliament being conclusive, no addition to it or declaration of castes/tribes or sub-castes/parts of or groups of tribes or tribal communities is permissible.

10. The entries in the school register preceding the Constitution do furnish great probative value to the declaration of the status of a caste. Hierarchical caste stratification of Hindu social order has its reflection in all entries in the public records. What would, therefore, depict the caste status of the people inclusive of the school or college records, as the then census rules insisted upon. Undoubtedly, Hindu social order is based on hierarchy and caste was one of the predominant factors during pre-Constitution period. Unfortunately instead of dissipating its incursion it is being needlessly accentuated, perpetrated and stratification is given legitimacy for selfish ends instead of being discouraged and put an end to by all measures, including administrative and legislative. Be it as it may, people are identified by their castes for one or the other is a reality. Therefore, it is no wonder that caste is reflected in relevant entries in the public records or school or college admission register at the relevant time and the certificates are issued on its basis. The father of the appellants admittedly described himself in 1943 and thereafter as a Hindu Koli. In other words his status was declared a Koli by caste and Hindu by religion. Kolis are admittedly OBCs. His feigned ignorance of the ancestry is too hard to believe. The averment in the affidavit that the entries were mistakenly made as Hindu Koli is an obvious afterthought. The anthropological moorings and ethnological kinshipaffirmity (sic) gets genetically ingrained in the blood and no one would shake off from past, in particular, when one is conscious of the need of preserving its relevance to seek the status of Scheduled Tribe or Scheduled Caste recognised by the Constitution for their upliftment in the society. The ingrained tribal traits peculiar to each tribe and anthropological features all the more become relevant when the social status is in acute controversy and needs a decision. The correct projectives furnished in pro forma and the material would lend credence and give an assurance to properly consider the claims of the social status and the officer or authority concerned would get an opportunity to test the claim for social status of particular caste or tribe or tribal community or group or part of such caste, tribe or tribal community. It or he would reach a satisfactory conclusion on the claimed social status. The father of the appellant has failed to satisfy the crucial affinity test which is relevant and germane one. On the other hand the entries in his school and college registers as Hindu Koli positively belies the claim of his social status as Scheduled Tribe.

11.It is seen that admittedly the appellants reside in Muland area. In the first instance Suchita rightly approached the Tahsildar having jurisdiction over the area concerned who refused to give her social status certificate as Mahadeo Koli, she filed an appeal and the High Court directed the Deputy Commissioner to dispose of the appeal who in turn without deciding the facts, directed the Tahsildar to issue the certificate. In the meanwhile she had, by orders of the court, got admission into the college and pursued her study. The Caste Certificate Scrutiny Committee, consists of the Secretary as Chairman and two members, and a Research Officer-cum-Director who have intimate knowledge

in the identification of the specified tribes, considered the entire material. The Committee has stated and as is seen that the appellant's father clearly accepted that his caste is recorded in the college as well as secondary school and college records as Hindu Koli only. This fact is strengthened by the candidate's father's school record (document at Serial No. 1). In the new English School locality at Thane, the name of the candidate's father appeared in the admission register at Serial No. 3733, and the caste clearly shown there was as H. Koli. This school record, comparatively, is not only oldest but it being the record pertaining to candidate's father's admission to school prior to independence, it carries greatest probative evidentiary value, The caste of the person, as stated earlier, is determined on the basis of the caste of their parents, basically for the reasons that the caste is acquired by birth. When the school record of the candidate's father shows his caste as Koli, the documents which the candidates have produced (documents quoted at Serial Nos. 3, 5 to 8, 11, 13 to 16) showing their caste as Mahadeo Koli cannot be relied upon. All these documents furnished by the candidates are those manipulated and fabricated with to knock of the seats in educational institutions defrauding the true Scheduled Tribes to their detriment and deprivation. As the school record of the candidate's father shows his caste as 'Koli', the caste certificates which have been issued to the appellants and their relatives by the Executive Magistrate, Greater Bombay (documents at Serial Nos. 9, 10, 12, 17 to 19) are without proper enquiry and investigation, besides being without jurisdiction. Its reiteration in service record would not carry any credibility or a ground to accept the caste as Scheduled Tribe. The caste certificate issued by Samaj being self-serving and subject to scrutiny, they cannot be held to be conclusive proof to determine the caste claim. The finding recorded by the Committee is based on consideration of the entire material together with sociological, anthropological and ethnological perspectives which Mahadeo Kolis enjoy and of the OBC castes and sub- caste of the Kolis. 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 holding that the reasoning of the High Court is wholly perverse and untenable.

12. We have seen that Scrutiny Committee proceedings although started on 8-12-1989 were prolonged till 26-6-1992. We do not have record to scan the reasons for the delay. It would appear

that the constitution of a Committee with large number of members and Secretary as Chairman must have greatly contributed for the delay in deciding the claims for the social status. A right of appeal provided thereafter compounded further delay though the Additional Commissioner on the facts of this case has disposed of the appeal very expeditiously. However, all of them are the contributory factors for the delay.

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.
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> 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.
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> 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.
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> 4. All the State Governments shall constitute a Committee of three officers, namely, (1) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (11) 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-a-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.

14. Since this procedure could be fair and just and shorten the undue delay and also prevent avoidable expenditure for the State on the education of the candidate admitted/appointed on false social status or further continuance therein, every State concerned should endeavour to give effect to it and see that the constitutional objectives intended for the benefit and advancement of the genuine Scheduled Castes/Scheduled Tribes or backward classes, as the case may be are not defeated by unscrupulous persons.

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.

16. Whether appellants are entitled to their further continuance in the studies is the further question. Often the plea of equities or promissory estoppel would be put forth for continuance and completion of further course of studies and usually would be found favour with the courts. The courts have constitutional duty and responsibility, in exercise of the power of its judicial review, to see that constitutional goals set down in the Preamble, the Fundamental Rights and the Directive Principles of the Constitution, are achieved. A party that seeks equity, must come with clean hands. He who comes to the court with false claim, cannot plead equity nor the court would be justified to exercise equity jurisdiction in his favour. There is no estoppel as no promise of the social status is made by the State when a false plea was put forth for the social status recognised and declared by the Presidential Order under the Constitution as amended by the SC & ST (Amendment) Act, 1976, which is later found to be false. Therefore, the plea of promissory estoppel or equity have no application. When it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue. Nor the plea of estoppel is germane to the beneficial constitutional concessions and opportunities given to the genuine tribes or castes. Courts would be circumspect and vary in considering such cases.

17. We have seen that Miss Suchita rightly made an application before the competent officer within whose jurisdiction her father lives in Muland and when he refused to give the certificate, she filed an appeal; approached the High Court and obtained direction and gained admission. It is not in dispute that the Additional Commissioner was delaying it; he did not decide as directed by the High Court, instead directed the Tahsildar to issue the certificate. Thus she secured a false social status certificate and orders of the court were used to gain admission. The judicial process is made use of to secure admission. She continued her studies thereafter pending scrutiny of her status certificate. No doubt there was a delay on the part of the Scrutiny Committee in the disposal of the claims and we do not find any record to scan the reasons for the delay. Suffice to state that her parents have put her under a cloud as to her social status. But as seen from the facts a course of conduct was adopted by her parents to gain admission on the claim which is now found to be false. Parents' misconduct visits the children also many a times. However, she has now completed the course of study except to appear for the final year as contended for her and nothing more is to be done in the situation for her to complete her course of study. We direct the Principal to permit her to sit for the final year examination, if she has completed the course of study as represented to us but not with the social status as a Scheduled Tribe which was claimed fraudulently and made her admission with the aid of the court's order and continue her studies. The delay in disposal facilitated her continuance in study

of MBBS course.

18. The delay in the process is inevitable but that factor should neither be considered to be relevant nor be an aid to complete the course of study. But for the fact that she has completed the entire course except to appear for the final examination, we would have directed to debar her from prosecuting the studies and appearing in the examination. In this factual situation no useful purpose would be served to debar her from appearing for the examination of final year MBBS. Therefore, we uphold the cancellation of the social status as Mahadeo Koli fraudulently obtained by Km Suchita Laxman Patil, but she be allowed to appear for the final year examination of MBBS course. She will not, however be entitled in future for any benefits on the basis of the fraudulent social status as Mahadeo Koli. However, this direction should not be treated and used as a precedent in future cases to give any similar directions since the same defeats constitutional goals.

19. In the case of Madhuri Laxman Patil, she did not approach the competent officer. She appears to have wrongly gone to an officer who had no jurisdiction, obviously she has shown the order issued by the High Court in favour of her sister Suchita and secured the certificate and got the admission. Though she is in midway of her study in BDS in the end of second year, she cannot continue her studies with her social status as Mahadeo Koli, a Scheduled Tribe and the concessions which she might have got on that account. If she was eligible for obtaining admission as a general candidate she may continue her studies. Therefore, we uphold the cancellation and confiscation of her and of Suchita of social status as Mahadeo Koli ordered by Scrutiny Committee and affirmed by the order of Appellate Authority and that of the High Court in that behalf. Subject to the above modifications, the appeal is dismissed but without costs.