

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2889 OF 2009
[Arising out of SLP(C) No.24533 of 2008]

DAMODHAR

... Appellant(s)

Versus

SECR.INDUSTRIAL,ENERGY & LAB.DEPTT.& ORS

... Respondent(s)

ORDER

Delay condoned.

Leave granted.

The appellant is working in the establishment of the Registrar, Industrial Court, Maharashtra, Mumbai. His case was referred to the Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur, for verification of his tribe claim as Halba, Scheduled Tribe community, by a letter dated 25th January, 2006. In order to verify the claim of the appellant, the Screening/Scrutiny Committee conducted an inquiry through the Police Vigilance Cell, which had also recorded the statement of the appellant's nephew on 7th August, 2006 regarding the socio-cultural traits, characteristics and customs, which did not seem to match those of the Halba Scheduled Tribe. The copy of the said report being served on the appellant, he

disagreed with the same and subsequently, the Scrutiny Committee directed him to appear before it on 18th January, 2007. When the matter was taken up for consideration by the Committee, the appellant indicated that he was withdrawing his claim as Halba Scheduled Tribe, but that he should be given the benefits of belonging to the Koshti Special Backward Category since in the meantime, an amendment had been made with regard to the categorisation of Halba Scheduled Tribe and Koshti Special Backward Classes.

On the basis of the said submissions, the Screening Committee cancelled the certificate granted to the appellant by the Executive Magistrate, Nagpur on 22nd August, 1980

Aggrieved by the said order the appellant moved the High Court in its writ jurisdiction where apart from challenging the cancellation of the certificate granted to him, the appellant also prayed that he be given the benefits of belonging to the Special Backward Classes on account of his belonging to the Koshti community.

The writ petition having been dismissed, the appellant has filed the special leave petition (now appeal) which is now being heard.

On behalf of the respondents, it has been submitted that pursuant to cancellation of the appellant's caste certificate, no action has been taken against the appellant to his detriment, and, in fact, he is continuing in service though, he cannot be entitled to any benefit derived from the certificate, which had initially been granted to him, after the decision of the Constitution Bench in the case of State of Maharashtra

Vs. Milind and others, [2001 (1) SCC 4], wherein it had been held that 'Halba Koshti' is not a scheduled tribe and that Koshti was, in fact, a category under the Special Backward Classes.

It was pointed out that the aforesaid decision had taken into consideration all the issues which have also been raised in this appeal and, in fact, covers the case of the appellant. In paragraph 38 of the judgment in Milind's case (supra) it has been indicated that in view of the passage of time it was being made clear that admissions and appointments having been become final would remain unaffected by the judgment.

Since it has been submitted on behalf of the respondents that the appellant's services are not being disturbed on account of the cancellation of his certificate, there seems to be little purpose in the filing of the present appeal. However, while holding that the appellant's case will also be covered by the decision in Milind's case (supra), we also indicate that if any benefit is claimed by him on the basis of his earlier status, such claim may be reviewed by the respondents in accordance with law.

The appeal is disposed of accordingly.

Any observations made by the High Court with regard to the certificate granted to the appellant earlier, will not be applied against him to his detriment.

**.....J.
(ALTAMAS KABIR)**

.....J.
(Dr. MUKUNDKAM SHARMA)

New Delhi,
April 27, 2009.

