

CASE NO.:
Appeal (civil) 54 of 2005

PETITIONER:
G.M., INDIAN BANK

RESPONDENT:
R. RANI & ANR

DATE OF JUDGMENT: 06/12/2007

BENCH:
B.N. AGRAWAL & P.P. NAOLEKAR

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO. 54 OF 2005
WITH

Civil Appeal Nos. 59-61 of 2005, Civil Appeal Nos. 55-57 of 2005, Civil Appeal No. 50 of 2006, Civil Appeal No. 51 of 2006

WITH

Civil Appeal No. 5661/2007 [Arising out of SLP (C) Nos. 1823 of 2006]; Civil Appeal No. 5663/2007 [Arising out of SLP (C) No. 1829 of 2006]; Civil Appeal No. 5664/2007 [Arising out of SLP (C) No. 5746 of 2006]; Civil Appeal No. 5665/2007 [Arising out of SLP (C) Nos. 18353 of 2005]; Civil Appeal Nos. 5668-5669/2007 [Arising out of SLP (C) Nos. 18694-18695 of 2005]; Civil Appeal Nos. 5666-5667/2007 [Arising out of SLP (C) Nos. 12123-12124 of 2005]

B.N. AGRAWAL, J.

1. Leave granted.

2. The private respondents in these appeals were appointed in the banks against the vacancies of Scheduled Tribe as they claimed themselves to be members of Konda Reddy Community which is a Scheduled Tribe. Most of them were appointed by the Indian Bank but some of them by the State Bank of India. Subsequently it transpired that they did not belong to Konda Reddy Community, as such an enquiry was directed which was conducted by a District Level Committee which found that they did not belong to Konda Reddy Community and accordingly certificates granted in their favour were cancelled. In all the cases, except in Civil Appeal No. 54/2005, the private respondents challenged the aforesaid decision of the District Level Committee before the State Level Committee which confirmed the same in most of the cases whereas in other cases matters remained pending before the State Level Committee. In the meantime, in accordance with the decisions of District Level Committee the services of private respondents were terminated which necessitated filing of the Writ Petitions before the High Court, which have been allowed by different orders. In all the cases orders passed by the Committee cancelling the certificates and consequential orders of termination have been quashed and it has been directed that it would be open to the properly constituted Committee to hold fresh enquiry in accordance with law. In some of the Writ Petitions directions have been given for reinstatement also. In relation to payment of back-wages it has been directed in some of the

Writ Petitions that the same would abide the result of enquiry by a properly constituted Committee. In Civil Appeal No. 54/2005 against the order of single Judge when the matter was taken in appeal the same has been confirmed whereas in other cases no appeal was filed. Hence, these appeals by the Indian Bank as well as State Bank of India by Special Leave.

3. Learned counsel appearing on behalf of the appellants in support of the appeals submitted that the High Court was not justified in holding that constitution of the Committee was not in accordance with the judgment rendered by this Court in the case of Kumari Madhuri Patil and Anr. vs. Addl. Commissioner, Tribal Development and Ors., [1994] 6 SCC 241 as the directions contained therein in relation to constitution of the Committee were mere guidelines. It was further submitted that even if there was any infirmity in the constitution of the District Level Committee, the order has been confirmed by the State Level Committee which was duly constituted, as such the High Court should not have interfered. It was also submitted that the High Court was not justified in directing the private respondents to be reinstated in service.

4. We first proceed to consider the question as to whether the directions contained in the decision of this court in the case of Kumari Madhuri Patil (supra) were merely guidelines or law laid down by this Court. In the case of Kumari Madhuri Patil (supra) after due consideration the Court gave various directions. Direction number 4 in paragraph 13 at page 254 reads thus:

"4. All the State Governments shall constitute a Committee of three officers, namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of the department concerned, (II) 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. According to aforesaid direction No. 4, the Committee for verifying the caste certificate shall be constituted of three persons, viz., (I) an Administrative Officer, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes, an Officer who has intimate knowledge in the verification and issuance of social status certificates and in the case of Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities. Subsequently for recall of the aforesaid judgment a Petition was filed before this Court which was disposed of in the case of Kumari Madhuri Patil & Anr. vs. Addl. Commr., Tribal Development, Thane and Ors. (1997) 5 SCC 437 and no change was made in the constitution of the Committee.

6. The directions given in the decision of Kumari Madhuri Patil (supra) have been reiterated in the case of Director of Tribal Welfare, Government of A.P. vs. Laveti Giri and Anr., (1995) 4 SCC 32 in which while reiterating it was

observed that Government of India should have the matter examined in greater detail and bring about a uniform legislation in relation to these matters. In the case of Baswant vs. State of Maharashtra & Ors., JT 2000 (10) SC 280 this Court held that the constitution of the Committee was not in accordance with the decision rendered by this Court in Kumari Madhuri Patil (supra), as such the appeal was allowed and it was directed to constitute the Committee in terms of the decision of this Court in the case of Kumari Madhuri Patil (supra) and decide the matter afresh. The said directions of this Court in the case of Kumari Madhuri Patil (supra) regarding constitution of Committee have been approved by a 3-Judge Bench of this Court in the case of Sudhakar Vithal Kumbhare v. State of Maharashtra and Ors., (2004) 9 SCC 481 in which as the matter was not referred to appropriate Committee in terms of directions given in the case of Kumari Madhuri Patil (supra) the appeal was allowed and it was directed that the properly constituted Committee shall decide the matter. In view of the foregoing discussions it cannot be said that the directions given in the case of Kumari Madhuri Patil (supra) were simply guidelines. In our view, the law laid down in the case of Kumari Madhuri Patil (supra) has been reiterated times without number not only by 2-Judge Benches but even by a 3-Judge Bench of this Court.

7. Learned counsel appearing on behalf of the appellants has relied upon the decision of this Court in the case of Director of Tribal Welfare v. Laveti Giri and Others, (1997) 4 SCC 271 in which draft rules prepared by the State of Andhra Pradesh in relation to the constitution of Committee was placed before the Court and this Court directed the State Government to publish the same in the Gazette. It has been submitted that according to the draft rules the State Level Committee was required to be constituted of six persons and District Level Committee of five persons and it was mentioned in the rules that the presence of three persons will form the required quorum for the meeting of the Committee. In the District Level Committee out of the five members, Scheduled Tribe and Scheduled Caste Welfare Officer were mentioned in one category and in another category, Anthropologist was mentioned. As presence of the three members would form the quorum it was submitted that even if the Welfare Officer and Anthropologist are not there in the Committee the same would not invalidate its constitution. From bare perusal of the aforesaid judgment it would be clear that though the draft rules have been approved by this Court and direction has been given for its publication in the State Gazette but nowhere it has been mentioned that the directions in the case of Kumari Madhuri Patil (supra) have been modified in any manner in relation to constitution of the Committee. This being the position, we do not find any substance in the first submission of the learned counsel appearing on behalf of the appellants.

8. So far as the second submission is concerned, we are of the view that as the constitution of the District Level Committee was in infraction of law laid down by this Court in the case of Kumari Madhuri Patil (supra) the defect could not have been cured by taking the matter in appeal to State Level Committee. This being the position, we are of the view that the High Court was quite justified in quashing the orders passed by District Level Committee, State Level Committee and the orders of termination.

9. Learned counsel appearing on behalf of the appellants lastly submitted that the High Court should not have passed

the order of reinstatement. This point is squarely concluded by a 3-Judge Bench of this Court in the case of Sudhakar Vithal Kumbhare (supra) in which on the ground of very same infirmity in the constitution of the Committee the direction was given by this Court to reinstate the government servant till the matter was decided by the Committee afresh. As such we do not find any substance in this submission as well.

10. For the foregoing reasons we do not find any merit in these appeals which are accordingly dismissed and the District Level Committee, now duly constituted by the State Government, is directed to decide the matter afresh in accordance with law within a period of six months from the date of receipt/production of a copy of this order. In the circumstances of the case, we direct that there shall be no order as to costs.