R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

R.S.A.NO. 359 OF 2022 (DEC/INJ)
C/W
R.S.A.NO. 340 OF 2022 (DEC/INJ)

IN RSA NO.359/2022
BETWEEN:

MS. ALFA S

...APPELLANT

(BY *Ms. ANANYA RAI, ADVOCATE FOR*
SRI MURUGESH V. CHARATI, ADVOCATE)

AND:

1 . THE CHIEF SECRETARY
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA,
BENGALURU-560 001

2 . THE HEAD MASTER/HEAD MISTRESS
ST. MARRY'S PRIMARY SCHOOL,

*** Corrected vide Chamber order dated 22.03.2024.**

SUNTICOPPA

3 . THE HEAD MASTER/HEAD MISTRESS
BHARATHAMATHAT PRIMARY SCHOOL,
KOPPA, PIRIYAPATTNA TALUK,
MYSORE DISTRICT-571 236.

4 . HEAD MASTER
SHANTHINIKETHAN HIGH SCHOOL,
KODAGARAHALLI, SOMWARPET TALUK,
KODAGU DISTRICT-571 236.

5 . THE PRINCIPAL
NALANDA PU COLLEGE,
GUDDENAHALLI, KOPPA,
PIRIYAPATTNA TALUK,
MYSORE DISTRICT.

6 . THE PRINCIPAL
ST. PHILOMINA COLLEGE,
B M ROAD, MYSORE.

7 . THE CHAIRMAN / DIRECTOR
S.S.L.C BOARD, K.S.E.E.B.,
6TH CROSS, MALLESHWARAM,
BENGALURU-560 003

8 . THE DIRECTOR
P U BOARD, BENGALURU-560001

…RESPONDENTS

(BY SMT. ANUKANKSHA KALKERI, HCGP FOR R1, R7 & R8;
R2 TO R6 SERVED & UNREPRESENTED)

THIS RSA IS FILED UNDER SECTION 100 OF CPC 1908, AGAINST THE JUDGMENT AND DECREE DATED 10.10.2019 PASSED BY THE COURT OF THE CIVIL JUDGE, KUSHALNAGAR IN

O.S.NO.45/2019 AND THE JUDGMENT AND DECREE DATED 25.11.2021 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AT SOMAWARPET IN RA 47/2019 AND ALLOW THIS APPEAL.

IN RSA NO.340/2022
BETWEEN:

MR. NEON S

...APPELLANT

(BY *Ms. ANANYA RAI, ADVOCATE FOR*
SRI MURUGESH V CHARATI, ADVOCATE)

AND:

1 . THE CHIEF SECRETARY
GOVERNMENT OF KARNATAKA, VIDHANA SOUDHA,
BENGALURU-560001

2 . THE HEAD MASTER/HEAD MISTRESS
ST.MARRY'S PRIMARY SCHOOL,
SUNTICOPPA-571216.

3 . THE HEAD MASTER/HEAD MISTRESS
FATHIMA HIGHER PRIMARY SCHOOL,
KUSHAL NAGAR,
KODAGU DISTRICT-571216

4 . HEAD MASTER
SHANTHINIKETHAN HIGH SCHOOL,
KODAGARAHALLI, SOMWARPET TALUK,
KODAGU DISTRICT-571 216.

5 . THE PRINCIPAL

*** Corrected vide Chamber order dated 22.03.2024.**

COPS PU COLLEGE, GONIKOPPAL,
KODAGU DISTRICT.

6 . THE PRINCIPAL
NIE COLLEGE,
MANANDAVADI ROAD,
MYSORE.

7 . THE CHAIRMAN/DIRECTOR
S.S.L.C BOARD,
BENGALURU-560 003

8 . THE DIRECTOR
P U BOARD, BENGALURU-560 001

…RESPONDENTS

(BY SMT. ANUKANKSHA KALKERI, HCGP FOR R1, R7 & R8;
R2 TO R6 SERVED & UNREPRESENTED)

THIS RSA IS FILED UNDER SECTION 100 OF CPC 1908, AGAINST THE JUDGMENT AND DECREE DATED 10.10.2019 PASSED BY THE COURT OF THE CIVIL JUDGE, KUSHALNAGAR IN O.S.NO.44/2019 AND THE JUDGMENT AND DECREE DATED 25.11.2021 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AT SOMAWARPET IN RA 48/2019 AND ALLOW THIS APPEAL.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 06.03.2024, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

The captioned second appeals are by unsuccessful plaintiffs assailing the concurrent judgments rendered by both the Courts, wherein both the Courts have dismissed the suits filed by plaintiffs seeking relief of declaration that plaintiffs belong to Bhovi community which falls under Scheduled Caste category and for mandatory injunction to direct defendants to amend caste in the school records on the ground that the reliefs are barred under Section 9 of Civil Procedure Code.

2. For the sake of brevity, the parties are referred to as per their rank before the trial Court.

3. The facts leading to the case are as under:

Plaintiff in O.S.No.45/2019 claimed that at the time of institution of suit she was studying in final year B.Sc. at St. Philomin's College, Mysuru. Plaintiff has studied from 3rd to 7th Standard at Fathima Higher Primary School,

Kushalnagar and she has studied 8th Standard at Bharath Matha High School, Koppa. Plaintiff further studied 9th and 10th standard at Shanthinikethan High School, Kodagarahalli.

Plaintiff in O.S.No.44/2019 claimed that he studied from 1st to 4th standard at St. Marry's school, Sunticoppa and from 5th to 7th standard, he studied at Fathima Higher Primary School, Kushalnagar. Plaintiff further claimed that he pursued his P.U.Education at COPs Gonikoppal and thereafter, he completed his B.E. degree from N.I.E. College of Engineering, Manandavadi Road, Mysore.

Plaintiffs claim that their father belong to Bhovi community which comes under Scheduled Caste category. However, while admitting plaintiffs to school, caste was wrongly shown as 'Gowda' instead of 'Bhovi'. In the school records, plaintiffs caste is shown to be 'Gowda'. Therefore, plaintiffs instituted suits seeking relief of declaration to declare that they belong to Bhovi community which falls

under Scheduled Caste category and that defendants have wrongly entered the caste in the school records and consequently, sought for mandatory injunction.

4. The trial Court dismissed both the suits by placing reliance on the judgment rendered by this Court in the case of ***Government of Karnataka, Rep. by Deputy Commissioner and Others vs. Kumari Shilpa Shrishail Baragadagi and Another***[1]. The trial Court while dismissing the suits held that plaintiffs have a remedy before the caste verification committee where they can seek redressal of their grievance and seek correction of the school records including caste certificate. Therefore, trial Court was of the view that civil Court has no jurisdiction to grant relief sought in the plaint.

5. Feeling aggrieved by the judgment and decree of the trial Court, plaintiffs preferred appeals before the appellate Court.

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[1] ILR 2014 Kar 5389

6. Before the appellate Court, plaintiffs withdrew the prayer seeking relief of declaration and only restricted the claim to relief of mandatory injunction. Though relief of declaration was deleted by way of amendment, appellate Court was of the view that relief of mandatory injunction to rectify the school records cannot be agitated before civil Court and civil Court has no jurisdiction to issue mandatory injunction to rectify the school records. Appellate Court was of the view that plaintiffs have to approach the committee constituted by the State Government. Appellate Court while dismissing the appeals placed reliance on the law laid down by this Court in the case of ***P.S.Venugopal vs. The Chief Secretary, Government of Karnataka and Others***[2].

7. This Court vide order dated 20.12.2023 admitted the appeal to consider the following substantial questions of law:

[2] 2016 SCC Online Kar 8398

"1. Whether both the Courts erred in holding that Civil Courts have no jurisdiction to issue mandatory injunction to the School Authorities to rectify the mistakes in the school records relating to the caste and bring it in conformity with the Caste Certificate issued by the Competent Authority?

2. Whether remedy under Section 4C(2) of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment Etc) Act, 1990 can operate as a bar to the Civil Courts to entertain a suit for mandatory injunction to rectify the school records in terms of Caste Certificate issued by the jurisdictional Tahasildar?"

8. Heard learned counsel appearing for the plaintiffs and learned HCGP appearing for the respondent-State. I have also given my anxious consideration to the unreported judgment rendered by this Court in RSA.No.1032/2004. I have also given my anxious consideration to the judgments cited by the counsel appearing for the plaintiffs and learned HCGP.

9. Learned HCGP has strongly resisted the present second appeals by placing reliance on the Circular dated 20.04.2020 issued by the State Government. The relevant portion of the said Circular reads as under:

"ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಸಕಇ 93 ಎಸ್‌ಎಡಿ 2017 ದಿನಾಂಕ:06.09.2017 ರ ಕಂಡಿಕೆ [3] ರಲ್ಲಿ ಈ ಕೆಳಗಿನಂತೆ ಇರುತ್ತದೆ.

"ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ತೀರ್ಪುಗಳಂತೆ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯಗಳಿಗೆ ಜಾತಿಗಳ ಬಗ್ಗೆ ನಿರ್ಧರಿಸುವ ಅಧಿಕಾರ ಇಲ್ಲದೇ ಇರುವುದರಿಂದ, ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯಗಳು ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ಜಾತಿ ಬದಲಾವಣೆ ಬಗ್ಗೆ ನೀಡಿದ ಆದೇಶಗಳನ್ನು ಶಿಕ್ಷಣ ಇಲಾಖೆಯ ಉನ್ನತ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಿ, ಸೂಕ್ತ ಆದೇಶಗಳನ್ನು ಪಡೆಯಬಹುದು. ಶಾಲಾ ದಾಖಲೆಗಳಲ್ಲಿ ತಪ್ಪು ಜಾತಿ ನಮೂದಾಗಿದ್ದರೆ ಶಿಕ್ಷಣ ಇಲಾಖೆಯು ಅದನ್ನು ಸರಿಪಡಿಸಬೇಕಾದಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ಅರ್ಜಿದಾರರು ಮೊದಲು ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯಬೇಕಾಗಿದೆ ಮತ್ತು ಅದರ ಆಧಾರದ ಮೇಲೆ ಮುಂದಿನ ಕ್ರಮ ಜರುಗಿಸಬಹುದು. ತಹಶೀಲ್ದಾರರು ನೀಡಿದ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರದಲ್ಲಿ ಸಂಶಯಗಳಿದ್ದರೆ ಅಥವಾ ಅದರಿಂದ ಬಾಧಿತರಾದವರು ಮೀಸಲಾತಿ ಕಾಯ್ದೆ 1990 ಕಲಂ 4(ಬಿ) ರಡಿಯಲ್ಲಿ ಕಂದಾಯ ಇಲಾಖೆಯ ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳಿಗೆ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಬಹುದು. ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರು ಯಾವುದೇ ವಿಚಾರಣೆ ಇಲ್ಲದೆ ಪೋಷಕರು ನೀಡಿದ ಮಾಹಿತಿ ಮೇಲೆ ಜಾತಿಗಳನ್ನು ನಮೂದಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ನಮೂದಿಸಿರುವ ಜಾತಿಯೇ ನೈಜ ಜಾತಿ ಎಂದು ಪರಿಗಣಿಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ."

ಆದ್ದರಿಂದ ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ತಪ್ಪು ಜಾತಿ ನಮೂದಾಗಿದ್ದಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ಅರ್ಜಿದಾರರು ಮೊದಲು ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆದು ಸಂಬಂಧಿಸಿದ ಶಾಲಾ ಮುಖ್ಯಸ್ಥರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಲು ತಿಳಿಸುವುದು. ಹಾಗೂ ಸದರಿ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರದ

ಆಧಾರದ ಮೇಲೆ ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ಜಾತಿ ತಿದ್ದಪಡಿ ಮಾಡಲು ಮುಖ್ಯ ಶಿಕ್ಷಕರು ಸಂಬಂಧಿಸಿದ ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳ ಮುಖಾಂತರ ಸಂಬಂಧಿಸಿದ ಉಪನಿರ್ದೇಶಕರು(ಆಡಳಿತ) ಇವರುಗಳಿಗೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸುವುದು. ಉಪನಿರ್ದೇಶಕರು(ಆಡಳಿತ) ರವರು ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸುತ್ತೋಲೆಯಂತೆ ಪರಿಶೀಲಿಸಿ, ದಾಖಲೆಗಳು ಸರಿ ಇದ್ದರೆ ಜಾತಿ ತಿದ್ದುಪಡಿ ಮಾಡಲು ಆದೇಶ ನೀಡುವುದು. ಸದರಿ ಆದೇಶದಂತೆ ತಿದ್ದುಪಡಿಯಾದ ನಂತರ ಶಾಲೆಯ ದಾಖಲಾತಿ ವಹಿಗಳಲ್ಲಿ ಉಪನಿರ್ದೇಶಕರು(ಆಡಳಿತ) ಇವರು ದೃಢೀಕರಿಸುವುದು. ಈ ಸೂಚನೆಗಳಂತ ಕ್ರಮವಹಿಸಲು ರಾಜ್ಯದ ಎಲ್ಲಾ ಜಿಲ್ಲಾ ಉಪನಿರ್ದೇಶಕರು (ಆಡಳಿತ), ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ ಮತ್ತು ರಾಜ್ಯದ ಎಲ್ಲಾ ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳು, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಇವರಿಗೆ ತಿಳಿಸಿದೆ."

10. Learned HCGP has also placed reliance on the Circular dated 06.09.2017. The relevant portion is as under:

"2. ಕರ್ನಾಟಕ ಅನುಸೂಚಿತ ಜಾತಿಗಳು ಮತ್ತು ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳು ಹಾಗೂ ಇತರೆ ಹಿಂದುಳಿದ ವರ್ಗಗಳ (ನೇಮಕಾತಿ ಮುಂತಾದವುಗಳ ಮೀಸಲಾತಿ) ಅಧಿನಿಯಮ 1990 ಕಾಯ್ದೆಯಂತೆ ತಹಶೀಲ್ದಾರರು ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರಗಳನ್ನು ನೀಡುವ ಅಧಿಕಾರ ಹೊಂದಿರುತ್ತಾರೆ ಮತ್ತು ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ನೀಡುವ ಮುಂಚೆ ತಹಶೀಲ್ದಾರರು ಶಾಲಾ ದಾಖಲಾತಿಗಳನ್ನು ಸೇರಿ ಇತರ ದಾಖಲಾತಿಗಳನ್ನು ಮತ್ತು ಸ್ಥಳ ಪರಿಶೀಲನೆ ಇತ್ಯಾದಿ ಪರಿಶೀಲಿಸಿ ನೈಜ್ಯವಾದ ಅರ್ಜಿದಾರರಿಗೆ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ನೀಡತಕ್ಕದ್ದು. ಕೇವಲ ಶಾಲಾ ದಾಖಲಾತಿ ಆಧಾರದ ಮೇಲೆಯೇ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ನೀಡತಕ್ಕದ್ದಲ್ಲ. ಆದ್ದರಿಂದ, ಜಿಲ್ಲಾ ಜಾತಿ ಪರಿಶೀಲನಾ ಸಮಿತಿ, ತಹಶೀಲ್ದಾರರು ನೀಡಿದ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ಜಾತಿ ಸಿಂಧುತ್ವ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ನೀಡಬಹುದೇ ಹೊರತು ಶಾಲಾ ದಾಖಲಾತಿ ತಿದ್ದುಪಡಿಗಳ ಬಗ್ಗೆ ಕ್ರಮ ವಹಿಸುವಂತಿಲ್ಲ.

3. ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ತೀರ್ಪುಗಳಂತೆ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯಗಳಿಗೆ ಜಾತಿಗಳ ಬಗ್ಗೆ ನಿರ್ಧರಿಸುವ ಅಧಿಕಾರ ಇಲ್ಲದೇ ಇರುವುದರಿಂದ. ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯಗಳು ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ಜಾತಿ ಬದಲಾವಣೆ ಬಗ್ಗೆ ನೀಡಿದ ಆದೇಶಗಳನ್ನು ಶಿಕ್ಷಣ ಇಲಾಖೆಯು ಉನ್ನತ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಿ ಸೂಕ್ತ ಆದೇಶಗಳನ್ನು ಪಡೆಯಬಹುದು. ಶಾಲಾ ದಾಖಲೆಗಳಲ್ಲಿ ತಪ್ಪು ಜಾತಿ ನಮೂದಾಗಿದ್ದರೆ ಶಿಕ್ಷಣ ಇಲಾಖೆಯು ಅದನ್ನು ಸರಿಪಡಿಸಬೇಕಾದಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ಅರ್ಜಿದಾರರು ಮೊದಲು ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆಯಬೇಕಾಗಿದೆ ಮತ್ತು ಅದರ ಆಧಾರದ ಮೇಲೆ ಮುಂದಿನ ಕ್ರಮ ಜರುಗಿಸಬಹುದು. ತಹಶೀಲ್ದಾರರು ನೀಡಿದ ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರದಲ್ಲಿ ಸಂಶಯಗಳಿದ್ದರೆ ಅಥವಾ ಅದರಿಂದ ಬಾಧಿತರಾದವರು ಮೀಸಲಾತಿ ಕಾಯ್ದೆ 1990 ಕಲಂ4(ಬಿ)ರಡಿಯಲ್ಲಿ ಕಂದಾಯ ಇಲಾಖೆಯ ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳಿಗೆ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಬಹುದು. ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರು ಯಾವುದೇ ವಿಚಾರಣೆ ಇಲ್ಲದೆ ಪೋಷಕರು ನೀಡಿದ ಮಾಹಿತಿ ಮೇಲೆ ಜಾತಿಗಳನ್ನು ನಮೂದಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ, ಶಾಲಾ ದಾಖಲಾತಿಗಳಲ್ಲಿ ನಮೂದಿಸಿರುವ ಜಾತಿಯೇ ನೈಜ ಜಾತಿ ಎಂದು ಪರಿಗಣಿಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ."

11. On meticulous examination of the culled out portion of the above said Circulars, the objections raised by learned HCGP on behalf of the State is found to be totally misconceived. The Circulars which are culled out supra clearly reveals that Civil Court has no jurisdiction to decide caste of citizen. The Circular dated 20.04.2020 also clearly reveals that if there is a wrong caste entry in the school records, the concerned applicant should first get the caste

certificate and inform the concerned school Principal to adopt further course of action and on the basis of said caste certificate, the Head Master is required to submit a proposal to the concerned Deputy Director (Administration) through the concerned Field Education Officer to rectify the caste in the school records. The Circular dated 06.09.2017 on which the State is placing reliance also clearly reveals that Tahsildar is the competent authority to issue caste certificate as per Karnataka Scheduled Caste and Scheduled Tribes and other Backward Classes (Reservation of Appointment, etc.,) Act, 1990 (for short '1990 Act'). The Tahsildar being the competent authority before issuance of caste certificate is not only bound to check school records and other documents but does so by place verification and other requisite formalities. The above Circular also gives an indication that caste certificate should not be issued only on basis of school enrollment.

12. On meticulous examination of the above two circulars, what emerges is that there is total bar on civil Court to decide to which caste the applicant belongs. The enquiry and the authority to issue caste certificate is vested with the jurisdictional Tahsildar. The above two Circulars also gives an indication that the caste certificate issued by the Tahsildar is not absolute. Based on caste certificate, if appointments are sought in the Government sector, the selected candidate who is placing reliance on caste certificate has to secure validity of the caste certificate from the District Caste Verification Committee.

13. In the light of discussion made supra, now let me examine as to whether the jurisdiction of civil Court in issuing mandatory injunction to the respondent/authorities to rectify the error that has crept in the school records and bring it in conformity with the caste certificate issued by the competent authority, is barred under Section 9 of CPC.

14. If plaintiffs restrict their claim to relief of mandatory injunction, this Court is of the view that substantive relief of declaration being withdrawn, plaintiffs are entitled to seek adjudication and substantiate that they are entitled for relief of mandatory injunction. The plaint is presented by placing reliance on caste certificate issued by the jurisdictional Tahsildar. If plaintiffs have restricted their claim to relief of mandatory injunction, the bar in regard to adjudication of the caste certificate being not the subject matter of the suit, this Court is more than satisfied that the bar under Section 9 has no application to the present case on hand. Civil Court's competency to entertain the relief of mandatory injunction based on a caste certificate is not expressly barred. The jurisdiction of civil Court to which the right to decide the *lis* between the parties has been conferred can only be taken by statute in specific terms and such exclusion of right cannot be easily inferred because there is always a strong presumption that civil Courts have

the jurisdiction to decide all questions of civil nature. Therefore, if at all there has to be an inference, the same should be in favour of jurisdiction of the Court rather than exclusion of such jurisdiction. It is also necessary to consider what the cause of action in the plaint is and what is the substantive relief which plaintiff would be entitled if he succeeds in the suit in order to determine whether Court has jurisdiction.

15. Generally speaking, the broad guiding considerations for determining whether civil Court jurisdiction is ousted are that wherever a right, not pre-existing in common law, is created by a statute and the statute itself provided a machinery for the enforcement of the right, both the right and remedy having been created and there being a declaratory mechanism under special statute, the litigant needs to be relegated to avail remedy under the statute and not under common law by knocking the doors of the civil Court.

16. Interestingly, plaintiffs in both the suits have given up the substantive relief of declaration that they belong to Bhovi community. The relief sought in the plaint hinges on the caste certificate issued by the Tahsildar. The Tahsildar is a competent authority to issue caste certificate. Plaintiffs are not seeking validation of the caste certificate and therefore, they have no remedy before the District Caste Verification Committee. The validation of caste certificate would arise for consideration where appointments are sought in Government jobs based on caste certificate indicating that a candidate belongs to backward class or reserve category. If the relief sought in the plaint is restricted, to seek direction to rectify the school records based on caste certificate issued by the Tahsildar, plaintiffs remedy is only under common law before the competent civil Court as the special statute does not provide any mechanism to align caste of student in school records in conformity with the caste certificate

issued by the Tahsildar. Therefore, the Civil Court was very much competent to entertain the relief of mandatory injunction.

17. Plaintiffs are not seeking validity certificate and therefore, they cannot seek redressal of their grievance by invoking 4C(2) of the 1990 Act. In that view of the matter, this Court is of the view that first substantial question of law is liable to be answered in the affirmative and the second substantial question of law is liable to be answered in the negative and are accordingly answered.

18. After careful consideration of the submissions made by the parties and perusal of relevant legal provisions, precedents and arguments, this Court hereby records the conclusions as follows:

a) The issue regarding competency of Tahsildar to issue certificate, it is firmly established that the Tahsildar being a designate competent authority as per the statutory

provisions outlined under the Act is unequivocally empowered to issue caste certificate to eligible individuals in accordance with the prescribed procedures delineated by law;

b) With regard to competence of District Caste Verification Committee to issue validity certificates, it is evident from the pertinent laws that the said committee holds the authority to issue validity certificate after due verification of caste status in accordance with applicable regulations;

c) The issue that has arisen for consideration in the captioned second appeal relates to error in mentioning caste in school records. This Court acknowledges the profound implications of such inaccuracies that have on individuals seeking to obtain caste certificates. It is well settled that in instances where discrepancies or errors exists in school records regarding an individual caste affiliation, the aggrieved parties are entitled to seek

redressal through initiation of suit for mandatory injunction before the civil Court. Such matters falls squarely within the jurisdiction of Civil Court, which is empowered to adjudicate and provide appropriate remedies for rectification of such errors;

d) Regarding the applicability of bar under Section 9 of CPC, this Court finds no impediment to exercise its jurisdiction in the present matter. Section 9 of the Code does not operate to preclude the jurisdiction of civil Court in adjudication upon the issues raised in this case as they involve distinct legal questions and remedies falling outside the ambit of the above said Act;

e) The fundamental principles of administrative law and statutory interpretation guide this Court's analysis of the competency of Tahsildar and the District Caste Verification Committee to issue caste and validity certificate respectively. The clear delineation of powers and functions within the statutory frame work provides a mechanism to

these authorities and they have their own restrictions in deciding the issues of caste certificate and on verification, issuing a validation certificate of a caste certificate issued by a competent Tahsildar;

f) Recognition of error of discrepancies in school records is a legitimate ground for seeking judicial intervention and it underscores the importance of ensuring accuracy and reliability in official documents. This Court reaffirms the foundational principles of access to justice and the right to seek redressal of grievances before a competent civil Court. The civil Court as a guardian of individual rights and liberties, stands ready to adjudicate upon matters within its jurisdiction and to provide appropriate remedy in accordance with law. Therefore, bar under Section 9 of Code does not operate as a bar to the jurisdiction of the civil Court in the present matter, as the issues at hand fall outside the scope of the above said Act;

g) In the event of errors in school records, the 1990 Act does not provide a mechanism for addressing such discrepancies. The above said Act encompasses provisions aimed at issuing a validity of caste certificate to enable a candidate to secure government jobs. Therefore, the remedies provided under the 1990 Act prove insufficient or inadequate to address the grievances of the plaintiffs, recourse to civil Court remains a viable option. The civil Courts therefore are vested with jurisdiction to adjudicate upon matters pertaining to civil rights and remedies. It also stands as a forum where aggrieved parties may seek appropriate redressal of their grievances. Therefore, jurisdiction of civil Court in such matters is not precluded by the provisions contained under 1990 Act as the matters at hand pertains to distinct legal questions and remedies that warrant adjudication before civil Court. Therefore, this Court acknowledges that in certain circumstances, the remedies provided under statutory enactments may prove

inadequate to address the grievances of the aggrieved party. In such instances, the civil Court stands as a forum where individuals may seek recourse and obtain appropriate remedies for vindication of their rights and interest.

19. For the reasons stated supra, this Court proceeds to pass the following:

ORDER

(i) The second appeals are allowed;

(ii) The impugned judgment and decree passed by the appellate Court in R.A.Nos.47/2019 and 48/2019 respectively confirming the judgment and decree passed by the trial Court in O.S.Nos.45/2019 and 44/2019 respectively are hereby set aside. Consequently, both the suits are decreed in part;

(iii) Defendant Nos.2 to 6 shall submit a proposal to the concerned authority to correct the caste in the school records/college records;

(iv) The competent authority shall scrutinize the proposal and by taking cognizance of caste certificate issued by the jurisdictional

Tahsildar, shall accordingly amend the caste of plaintiffs in all relevant documents;

(v) The pending interlocutory application, if any, does not survive for consideration and stands disposed of accordingly.

This Court appreciates and commends both the young lawyers who have offered invaluable assistance to this Court.

Sd/-
JUDGE

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