IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8890 of 2025

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Md. Isa Son of Md. Shams-ul Haque, Resident of Village-Tarha, Ward No. 12, Sugma, PS-Banma Itihari, District-Saharsa, Bihar-852129.

... ... Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. State Election Commission, Bihar, Patna through the Secretary, 3rd Floor, Sone Bhawan, Veer Chand Patel Path, Patna.
3. The Secretary, State Election Commission, 3rd Floor, Sone Bhawan, Veer Chand Patel Path, Patna.
4. Officer on Special Duty, State Election Commission, 3rd Floor, Sone Bhawan, Veer Chand Patel Path, Patna.
5. The Additional Chief Secretary-cum-Chairman, General Committee (Caste Scrutiny Committee), General Administration Department, Government of Bihar at Patna.
6. The District Election Officer (Panchayat) cum District Magistrate, District-Saharsa, Bihar.
7. Senior Superintendent of Police (Administration), Saharsa.
8. The Additional Superintendent of Police (Administration), Saharsa.
9. Subhash Kumar, son of Shri Priyavarat Sah, Resident of Village-Thadhia, P.O. Suagma, P.S. Salakhua, District-Saharsa.

... ... Respondent/s

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Appearance :
For the Petitioner : Mr. Amit Shrivastava, Sr. Advocate
Mr. Ranjeet Choubey, Advocate
Mr. Siddharth Shankar Singh, Advocate
For the State : Mrs. Pushpanjali Sharma, AC to SC-20
For the Resp. No.9 : Mr. S.B.K. Manglam, Advocate
Mr. Awnish Kumar, Advocate
Mr. Vikash Kumar Singh, Advocate
Mr. Kumar Gaurav, Advocate
For the State Election Commission : Mr. Ravi Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date :14-08-2026

Heard Mr. Amit Srivastava, learned Senior counsel

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assisted by Mr. Ranjeet Choubey, learned counsel for the petitioner, Mrs. Pushpanjali Sharma, learned A.C. to S.C.-20 for the State of Bihar, Mr. Ravi Ranjan, learned counsel for the State Election Commission and Mr. S.B.K. Manglam, learned counsel for the respondent no.9.

2. The petitioner has filed the instant application for the following relief(s):

> *"i. For issuance of an appropriate writ in the nature of Certiorari or any other writ of similar nature for quashing the proceeding of the general committee (caste Scrutiny Committee) dated 28.03.2025 and further communicated vide Memo No.6574 dated 11.04.2025 whereby and where under the committee has been pleased to reject the claim of the petitioner as belonging to Teli (Muslim) extremely backward class on the arbitrary and non est grounds and has been further pleased to forward the said finding to the Respondent State Election Commission in case no. 56/2023 [Subash Kumar v. The District Election Officer (Panchayats) cum District Magistrate, Saharsa and Others] for further action.*
>
> *ii. For issuance of a direction, order, writ, including writ of Mandamus directing the Respondent Authorities and more particularly Respondent State Election Commission not to take any action against the petitioner on the basis of the aforementioned finding of the general committee as the same has been prepared malafidely without considering relevant documents as also ignoring the inquiry report submitted in said proceeding.*

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iii. For issuance of a direction, order, writ, including writ of Mandamus directing the respondent authorities to show cause as to why the report of three membered committee/inspecting team chaired by the SSP (Administration), Saharsa was not duly considered by the General Committee (Caste Scrutiny Committee).
iv. For a declaration that the petitioner belongs to Teli (Muslim) community based upon unequivocal finding of the enquiry report submitted in favour of the petitioner.
v. For a declaration that if statute prescribes a particular act to be done in a particular manner, then it should be done in that manner alone or not at all and other means are not only necessarily prohibited but also constitute illegality.
vi. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner is entitled under the facts and circumstances of the case.
vii. For issuance of appropriate writ in the nature of certiorari or any other similar writ of similar nature for quashing the order dated 25-06-2025 passed in Case no. 56/2023 by Respondent State Election Commission and further communicated vide memo no. 2876 dated 25-6-2025 under the signature of Respondent no. 4 on the ground that said order is also an illegality as same is based upon illegal and wrong finding of the general committee of the caste scrutiny committee.
viii. For issuance of an appropriate writ in nature of mandamus or any other writ of similar nature, commanding and directing the Respondent State Election Commission not to proceed ahead in furtherance of order dated 25-06-2025 passed in case no..”

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3. The case of the petitioner in brief is that in the election held in the year 2021, he was elected on the post of Mukhiya of Gram Panchayat Raj Sahuria. A complaint was filed by respondent no.9 before the State Election Commission (‘SEC’ or ‘the Commission’ in short) praying for disqualifying the petitioner on the ground that the seat on which the petitioner had been elected was reserved for Extremely Backward Class (‘EBC’ in short) while the petitioner who belonged to Sheikh community had fraudulently obtained a caste certificate of EBC wrongly showing himself to belong to the caste of Teli (Muslim).

4. Upon the direction of the Criminal Investigation Department (Weaker Section), a three member Enquiry Committee enquired into the caste of the petitioner and submitted its report dated 31.12.2024 (Annexure-P/3) according to which it confirmed that the petitioner belonged to Teli (Muslim) caste.

5. The petitioner received a show cause contained in letter no.2319 dated 7.2.2025 asking him to respond to the report dated 31.12.2024. The petitioner submitted his reply on 4.3.2025.

6. Another report dated 28.3.2025 (Annexure-P/5)

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contained in memo no.6574 dated 11.4.2025 came to be submitted by the three member Caste Scrutiny Committee wherein the claim of the petitioner for reservation in the EBC category on account of belonging to Teli (Muslim) caste was rejected.

7. The Commission proceeded with the Case no.56 of 2023 registered on the complaint filed by respondent no.9 and passed order contained in memo no.2876 dated 25.6.2025 under the signature of the State Election Commissioner, Bihar holding that the petitioner was not a permanent resident of the State of Bihar and thus was not entitled for reservation on the ground of the illegal caste certificate. Thus his election as a Mukhiya was not proper and as a result he is removed from the said post. It was further ordered to recommend action against the concerned State employee who had issued the incorrect caste certificate to the petitioner.

8. It is against the Caste Scrutiny Committee proceeding dated 28.3.2025 contained in memo no.6574 dated 11.4.2025 and the order dated 25.6.2025 passed in Case no.56 of 2023 of the State Election Commission that the petitioner has filed the instant writ application for the reliefs as stated herein above.

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9. Mr. Amit Srivastava, learned Senior counsel appearing for the petitioner submitted that it is the Caste Scrutiny Committee which is the fact finding body. The Committee in its report dated 31.12.2024 (Annexure-P/3) having confirmed the caste of the petitioner as Teli (Muslim), in view of clause 4(kha) of the resolution dated 5.2.2014 (Annexure-P/2) of the General Administration Department, Government of Bihar, there was no occasion for taking further steps in the matter. The Committee once again entering into examining the caste of the petitioner was beyond its jurisdiction and thus the second report of the Caste Scrutiny Committee dated 28.3.2025 is not sustainable.

10. Learned Senior counsel for the petitioner further submitted that even in its second report dated 28.3.2025, the Caste Scrutiny Committee refused to give benefit to the petitioner of reservation for the EBC category on the ground of the petitioner not being a resident of the State of Bihar and thus not being entitled for benefit of reservation under the Bihar Act 15 of 2003.

11. It was submitted by learned Senior counsel for the petitioner that taking into consideration the contents of the second report of the CSC dated 28.3.2025, the State Election

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Commission by its order dated 25.6.2025 passed in Case no.56 of 2023 allowed the application filed by the respondent no.9 holding that the petitioner had obtained the benefit on the basis of an illegal/incorrect caste certificate. It was recommended that the District Election Officer (Panchayat)-cum-District Magistrate, Saharsa proceed against the petitioner.

12. It was finally contended by learned Senior counsel for the petitioner that in view of the facts and circumstances of the case, the respondents having committed the illegality in re-examining the caste of the petitioner and the petitioner having been incorrectly denied the benefit of belonging to the EBC category on the basis of the provisions contained in Bihar Act 15 of 2003, the orders impugned are not sustainable and thus be set aside.

13. Learned Senior counsel appearing for the petitioner in support of his contention relied upon the judgments in the case of **Kumari Madhuri Patil vs. Addl. Commissioner, Tribal Development; (1994) 6 SCC 241, Tarlochan Dev Sharma vs State Of Punjab; AIR 2001 SC 2524, Nazir Ahmad vs Emperor; AIR 1936 PC 253, Karim Uddin Barbhuiya vs Aminul Haque Laskar; AIR 2024 SC 2193, Ex-Recruit Babanna Machched vs. Union of India; AIR 2024**

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SC 921 and Anjani Jha vs. State of Bihar; 2023 (2) PLJR 793.

14. The application is opposed by Mr. Ravi Ranjan, learned counsel appearing for the State Election Commission. It was submitted that on a question with respect to the caste of the petitioner being raised in a complaint filed by the respondent no.9, the documents not being of unimpeachable character, in view of the decision of the Hon'ble Supreme Court in the case of Kumari Madhuri Patil (supra) the matter was referred to the State Level Caste Screening Committee which is the apex fact finding body. A report was submitted confirming the caste of the petitioner to be Teli (Muslim).

15. It is further submitted by learned counsel for the State Election Commission that the ancestors of the petitioner were resident of Jaunpur in the State of Uttar Pradesh. The petitioner was asked to respond to the same. The petitioner responded by filing a reply. Another report dated 28.3.2025 was submitted by the Caste Scrutiny Committee. Taking into consideration the provisions of Bihar Act 15 of 2003 that a person who is resident of a place outside the State of Bihar would not be entitled for reservation, in view of the fact that the ancestors of the petitioner were resident of Uttar Pradesh, the

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benefit taken by the petitioner on account of belonging to Teli (Muslim) and thus to the category of EBC, the same was denied to the petitioner. The matter was thereafter considered by the State Election Commission. By its order dated 25.6.2025, the State Election Commission was pleased to allow Case no.56 of 2023 filed by the respondent no.9 and holding that the petitioner not being a original resident of the State, he was not entitled to reservation here which he had obtained on the basis of an incorrect caste certificate.

16. Learned counsel for the Commission submitted that in coming to the findings, the State Election Commission has relied upon the findings of the Caste Scrutiny Committee, the admitted stand of the petitioner that his family migrated to the State of Bihar about 125 years ago and that the documents produced by the petitioner could not prove that he belonged to Teli (Muslim) caste.

17. Learned counsel for the Commission in support of his submissions relied upon the judgment in the case of **Mari Chandrashekhar vs. Seth G.S. Medical College; (1990) 3 SCC 130** and **Bindu Devi vs. State of Bihar; 2024 (2) PLJR 103**. It was submitted that there is no merit in the writ application and the same be dismissed.

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18. Mr. S.B.K. Manglam, learned counsel appearing for the respondent no.9 submitted that the caste of the petitioner having been called in question on a petition filed by the respondent no.9, the matter was referred to the Caste Scrutiny Committee. In its final report dated 28.3.2025, the Committee came to the conclusion that as per the petitioner's case itself, his ancestors had moved from Jaunpur, Uttar Pradesh to the State of Bihar and, therefore the petitioner was not an original resident of Bihar. Thus, in view of the provisions contained in Bihar Act 15 of 2003, he was not entitled for the benefit of reservation.

19. Learned counsel appearing for the respondent no.9 further referring to a copy of the letter no.673 dated 8.3.2011 (Annexure-R9/1) of the General Administration Department, Government of Bihar submitted that as per clause 9 thereof, the documents mentioned therein are to be considered evidence for issuance of caste certificate. Further referring to the provisions contained in section 4 of the **Bihar Reservation of Vacancy in Posts and Services (for Scheduled Caste, Schedule Tribes and Other Backward Classes) Act, 1991** ('Act of 1991' in short), amended by Bihar Act 15 of 2003, it was submitted that persons resident of outside the State of Bihar are not entitled for reservation under the said Act and thus the

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petitioner not being an original resident of the State of Bihar cannot claim reservation on the basis of the caste certificate. It was submitted that the State Election Commission on the basis of the final report of the Caste Scrutiny Committee rightly held the petitioner not to be entitled for the benefit of reservation and thus set aside the election of the petitioner as a Mukhiya on the seat reserved for the EBC category.

20. Learned counsel for the respondent no.9 in support of his submission relied upon the judgments in the case of **Manoj Prasad vs State Election Commission (Panchayat); 2023 (4) PLJR 6, Pooja Kumari vs State of Bihar; 2024 (1) PLJR 391, Khushboo Ara vs State of Bihar; 2023 (3) PLJR 560 affirmed in LPA no.881 of 2023 and Bindu Devi vs State of Bihar; 2024 (3) BLJ 714.**

21. Heard learned counsel for the parties and perused the material on record.

22. The relevant facts in brief are that the petitioner was elected as the Mukhiya of Gram Panchayat Raj Sahuria in the elections held in the year 2021.

23. A complaint case was filed by the respondent no.9 before the State Election Commission under section 136(2) of the **Bihar Panchayat Raj Act, 2006** (‘the Panchayat Raj Act’

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in short) and the same was registered as Case no.56 of 2023.

24. The case of the respondent no.9/complainant was that the petitioner is a Sheikh by caste and showing himself to be a Teli (Muslim) he has fraudulently obtained a caste certificate of EBC from the Circle Officer, Banma Itihari and contesting the elections for the post of Mukhiya from Gram Panchayat Raj Sahuria which was reserved for the members of EBC, the petitioner had been elected. As such, he be disqualified from the post of Mukhiya of Gram Panchayat Raj Sahuria.

25. It may be mentioned here that there is no dispute with respect to the fact that a caste certificate dated 2.2.2016 was issued by the competent authority certifying the petitioner to be belonging to Teli (Muslim) caste, and a copy of the same has been brought on record as annexure to the application.

26. The issue with respect to benefits etc. on account of an incorrect caste certificate having been obtained by a person came up for consideration before the Hon’ble Supreme Court in the case of Kumari Madhuri Patil (supra). The Hon’ble Supreme Court held that admissions wrongly gained or appointment wrongly obtained on the basis of false social status certificate has the affect of depriving of genuine candidates of

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the benefit conferred on them by the Constitution. So far as admissions to educational institutions are concerned, the applications are generally made by parent as the student may be a minor and it is the parent or guardian who play fraud claiming false status certificate. The Hon'ble Court proceeded to hold that it was necessary that the certificates issued be scrutinised at the earliest and with utmost expedition and promptitude. It proceeded to streamline the procedure for issuance of social status certificate, their scrutiny and their approval. The relevant part of paragraph no.13 and paragraph no.15 of the judgment in the case of **Kumari Madhuri Patil** (supra) is reproduced herein below:

> *"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, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and*

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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 ……

……..

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.

……..

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.

……..

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."

27. At this stage itself, it would be relevant to refer to the Full Bench judgment of this Court in the case of **Rajani Kumari vs. The State Election Commission through its Secretary; 2019 (4) PLJR 673** wherein in an answer to

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question no.I as to whether the State Election Commission will have power to consider disqualification of a candidate after election as such Election Commission is constituted for conduct of elections, this Court held as follows:

> *"183. I, therefore, find that the cumulative impact of the entire discussion in the separate judgments would take us to answer the reference in the following terms:-*
>
> *Question No. I-Whether the State Election Commission will have power to consider disqualification of a candidate after election as such Election Commission is constituted for conduct of elections?*
>
> *184. We are in agreement that the State Election Commission has got power under sub-section (2) of Section 18 of the Bihar Municipal Act, 2007 and sub-section (2) of Section 136 of the Bihar Panchayat Raj Act, 2006 to consider an issue of pre or post-election disqualification of a candidate subject to a caution which we have pointed out in our judgments in respect of a case which is in the nature of a purely election dispute and then a matter which cannot be decided without adducement of evidence by a competent court and authority in accordance with law. The State Election Commission shall entertain and consider the 'disqualification' issues on the basis of the unimpeachable materials placed before him. Whether a complaint brought before the Commission either suo-moto or by any other person, the Commission shall at the first instance enquire whether it is a purely election*

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dispute and only when it is found that the dispute brought before it is not a purely election dispute, the Commission shall proceed to consider the same on the basis of unimpeachable materials. Whenever a disputed question of facts and a contentious issue is brought before the Commission as a ground and basis to render a candidate disqualified, the Commission would be required to relegate the parties to a competent court/tribunal or a fact finding body competent to decide such contentious issues after taking evidences and till such time the Commission shall not take a decision on such complaint either suo-moto or otherwise."

28. On filing of Case no.56 of 2023 by the respondent no.9, a direction was given by the Criminal Investigation Department (Weaker Section) to scrutinise the caste of the petitioner.

29. The three members Caste Scrutiny Committee constituted on 18.3.2024 issued notice to the petitioner on 7.6.2024 and visited his residence in Panchayat Sahuria, Post Sugma as also the present residence under Police Station Banma Itihari. The Committee made enquiries from the villagers of the petitioner, his neighbours, relatives as also various public representatives. In course of enquiry, the caste certificate issued in favour of the petitioner was also given to the enquiry team and enquiries were made from a number of

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persons including Chandra Kishore Mehta (neighbour), Shambhu Ram (co-villager), Md.Vakil Khan (co-villager), Md. Masir Alam (relative), Md. Shoaib Alam (relative), Kuresha Khatoon (relative) and Aklu Bhagat (neighbour). It was stated by the Committee that the elections for the seat of Mukhiya of Panchayat Sahuria held in the year 2021 was reserved for the EBC category, the petitioner who belonged to the said category contested the election and was elected. Besides the above, witness Ward Member Smt. Indu Devi as also a member of Panchayat Samiti namely Sri Kalo Kumar disclosed that they know the ancestors of the petitioner who are Teli (Muslim). Further, the caste certificate issued in favour of the petitioner from the office of the Circle Officer of Banma Itihari was sent for verification to the said office. A verification report was made available from the office of the Circle Officer along with the covering letter stating therein that after getting the necessary enquiries done by the Revenue Karamchari and Revenue Officer, the caste certificate had been issued in favour of the petitioner stating that he belonged to Teli (Muslim) caste. In view of the aforesaid facts, the Caste Scrutiny Committee submitted it’s report dated 31.12.2024 signed by all the three members to the effect that the petitioner belonged to Teli

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(Muslim) caste.

30. In view of the categorical finding of the Caste Scrutiny Committee in its report dated 31.12.2024 finding the caste certificate issued by the competent authority in favour of the petitioner to be genuine and that the petitioner belonged to Teli (Muslim) caste, it is the submission of learned Senior counsel appearing for the petitioner that the matter should have concluded.

31. At this stage, it would be relevant to refer to para 13(vii) of the judgment in the case of Kumari Madhuri Patil (supra) where the Hon'ble Supreme Court held that in case the report is in favour of the candidate and found to be genuine and true, no further action need to be taken.

32. Learned Senior counsel appearing for the petitioner also refers to clause 4(kha) of the resolution contained in memo no.1567 dated 5.2.2014 of the General Administration Department, Government of Bihar which provides that if the report of the Caste Scrutiny Committee is in favour of the certificate holder, nothing further is required to be done.

33. The petitioner was served with a copy of the enquiry report dated 31.12.2024 along with the letter no.2319

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dated 7.2.2025 asking the petitioner to respond to the same. The petitioner submitted his response (Annexure-P/4) on 4.3.2025 before the Caste Scrutiny Committee (CSC) of the General Administration Department. The Committee in its meeting held on 28.3.2025 prepared a report contained in memo no.6574 dated 11.4.2025 (Annexure-P/5). In its report, the Committee referring to the provisions of Bihar Act 15 of 2003 that the candidates residing out of the State of Bihar shall not claim benefits of reservation under the Act and that the petitioner had not produced any other document except for the hibbanama in evidence of his having moved from Jaunpur, Uttar Pradesh and having settled in the State of Bihar, the Committee came to the conclusion that the petitioner cannot take benefit of reservation in the State of Bihar on account of his claim of belonging to Teli (Muslim) ie EBC category.

34. On the report of the Caste Scrutiny Committee contained in memo no.6574 dated 11.4.2025 being submitted with the State Election Commission in Case no.56 of 2023, the Commission passed order contained in memo no.2876 dated 25.6.2025 holding that the petitioner is not an original resident of the State of Bihar and, therefore, not entitled for the benefit of reservation on the basis of the illegal caste certificate. Thus

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his election on the reserved post of Mukhiya is not as per the Rules. His election was set aside in exercise of powers conferred under section 135 read with section 136(2) of the Bihar Panchayat Raj Act, 2006. Recommendation was made to proceed against the officers and employees who had issued the incorrect caste certificate in favour of the petitioner.

35. The first point contended by learned Senior counsel appearing for the petitioner was that on the Caste Scrutiny Committee coming out with its first report dated 31.12.2024 (Annexure-P/3), in view of the provisions contained in clause 4 (kha) of the General Administration Department, Bihar contained in memo no.1567 dated 5.2.2014, no further steps were required to be taken. It may only be observed here that from a bare reading of the provisions contained in clause 4 (kha), it cannot be said that there is an absolute bar in proceeding further in the matter.

36. The question thus arising is as to whether the Caste Scrutiny Committee after having submitted its report dated 31.12.2024, had the power to review the same and come out with another report on 4.3.2025. In this context, it may be observed that the first report dated 31.12.2024 was by a Committee comprising of police personnel ie Additional

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Superintendent of Police (Administration), a Police Inspector and a Police Sub-Inspector constituted on the direction of the Criminal Investigation Department (CID). A copy of the said report was provided to the petitioner to which he filed his response (Annexure-P/4) on 4.3.2025 and thereafter the respondent Caste Scrutiny Committee in its meeting held on 28.3.2025 came out with the report contained in memo no.6574 dated 11.4.2025 wherein the three members were the Additional Chief Secretary, General Administration Department, the Deputy Secretary (Weaker Section and EBC), Welfare Department and Additional Secretary, General Administration Department. Thus, the second report contained in memo dated 11.4.2025 cannot be said to be a review of the first report dated 31.12.2024.

37. It may be observed here that while in its report dated 31.12.2024 there was a categorical finding affirming the caste certificate that the petitioner belonged to Teli (Muslim) caste, in the subsequent report contained in memo dated 11.4.2025, the Committee observed that the petitioner had not produced any other document in support of his belonging to the Teli (Muslim) caste except a hibbanama issued in the year 1900. This report was being prepared by the Committee after

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the petitioner was served with a copy of the enquiry report dated 31.12.2024 and after he had filed his response to the same. Thus the report dated 31.12.2024 was also before the Committee. Inspite of these facts, the Committee preparing the subsequent report dated 11.4.2025 failed to take into consideration that it was not just the hibbanama but in preparing the report dated 31.12.2024, the three member committee had taken into consideration a number of other factors, for example, (i) enquiries from the villagers, neighbours, relatives as also public representatives of the petitioner (ii) caste certificate issued in favour of the petitioner was verified from the Circle Officer.

38. It would also be relevant to note that in its report contained in memo dated 11.4.2025, the Caste Scrutiny Committee did not conclude that the petitioner did not belong to Teli (Muslim) caste or that he belonged to some other caste. It only stated that on account of residing out of the State of Bihar, in view of the provisions contained in Bihar Act 15 of 2003, he was not entitled for benefit of reservation under Bihar Act 15 of 2003.

39. It may be mentioned here that the Bihar Reservation of Vacancies in Posts and Services (for Schedule

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Castes, Schedule Tribes and Other Backward Classes) Act, 1991 was framed to provide adequate representation of SC, ST and OBC in posts and services under the State of Bhar. Schedule I of the said Act gives a list of Extremely Backward Classes (EBCs).

40. Bihar Act 15 of 2003 (**The Bihar Reservation of Vacancies in Posts and Services for Scheduled Castes, Scheduled Tribes and other Backward Classes (Amendment) Act, 2003**) brought about amendments in the Act of 1991. It added a third proviso to section 4(2) of the Act of 1991 which reads as follows:

> *"Provided further that the candidates residing out of the State of Bihar shall not claim for benefits of reservation under this Act."*

41. So far as the application of the Act of 1991 to the elections of Mukhiya is concerned, it may be mentioned that reservation of seats for the post of Mukhiya is governed by the provisions contained in section 15(5) of Bihar Panchayat Raj Act, 2006 which provides that seats shall be reserved for SCs, STs and BCs, but the same shall not exceed 50% of the total seat of Mukhiya within a Panchayat Samiti. Backward Classes is defined under section 2(b) of the Bihar Panchayat Raj Act, 2006 as follows:

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> *"(b) "**Backward Classes**" means and includes the list of Backward Classes of citizens specified in Annexure 1 of the Bihar Reservation of Vacancies in Posts and Services (for SC, ST and Other Backward Classes) Act, 1991 (Bihar Act No.3, 1992)."*

42. Thus from the facts stated herein above, it is clearly seen that so far as the Act of 1991 is concerned, the same does not govern the reservation in the election to the post of Mukhiya but the said reservation is to be governed by the provisions contained in section 15(5) of the Panchayat Raj Act. The connection between the two Acts is to the extent that so far as the list of Backward Classes within the meaning of Panchayat Raj Act is concerned, the same has been defined to mean the castes specified in Annexure 1 of the Act of 1991.

43. The Caste Scrutiny Committee in its report has held that Act 15 of 2003 provides that a candidate residing outside the State of Bihar shall not claim benefits of reservation under this Act. Firstly, the benefit of reservation so far as election to the post of Mukhiya is concerned, is not claimed under the Bihar Act 15 of 2003 (Amending Act) or the main Act of 1991. As stated above, the same is to be governed under the Panchayat Raj Act. Further the petitioner cannot be said to be a candidate 'residing out of the State of Bihar' for the reason that even as per the respondent's case, the ancestors of the

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petitioner moved from Jaunpur, Uttar Pradesh to Bihar about 125 years ago and 3-4 generations above the petitioner. The ancestors of the petitioner residing in the State of Bihar for more than 100 years, by no stretch of imagination can it be said that the petitioner is a candidate residing out of the State of Bihar. Even the third proviso to section 4(2) of the Act of 1991 does not use the word that the benefit of reservation under the Act will be given to 'original residents' only. Thus, in the opinion of the Court, the Caste Scrutiny Committee in its report contained in memo dated 11.4.2025 has clearly erred in applying Bihar Act 15 of 2003 to the facts of the present case.

44. It would also be relevant to point out that while holding that the petitioner cannot be given benefit of reservation on account of not being a candidate residing in the State of Bihar, the Caste Scrutiny Committee which is the Apex Fact Finding Body has neither cancelled the caste certificate issued by the competent authority in the State of Bihar in favour of the petitioner certifying him to be belonging to Teli (Muslim) nor recommended for it's cancellation nor has it given a finding that the petitioner belongs to some other caste.

45. On the report contained in memo dated 11.4.2025 of the Caste Scrutiny Committee having been

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submitted to the State Election Commission, the Commission proceeded to finally dispose of Case no.56 of 2023 by its order contained in memo no.2876 dated 25.6.2025. A perusal of the said order would show that the reasons for allowing the said case filed by respondent no.9 are that the petitioner is not an original resident of the State of Bihar and, therefore, cannot be given the benefit of reservation on the basis of the caste certificate. As such, the election of the petitioner as a Mukhiya is set aside in exercise of powers under section 135 read with section 136 (2) of the Panchayat Raj Act and further holding the Circle Officer, Banma Itihari and the Revenue Karamchari responsible for issuance of an incorrect caste certificate in favour of the petitioner, recommendation is made for taking appropriate action against them.

46. So far as the benefit of reservation not being given to the petitioner on account of his not being an original resident of the State of Bihar is concerned, the issue has already been dealt with in detail herein above. In so far as the State Election Commission also proceeding on the basis of the provisions contained in the Act of 1991 (amended by the Bihar Act 15 of 2003), reservation in the elections of Mukhiya are not governed by Act of 1991 or the Amending Act but by

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section 15(5) of the Panchayat Raj Act.

47. With respect to the State Election Commission coming to the conclusion that an incorrect caste certificate has been issued by the Circle Officer, Banma Itihari and the concerned Revenue Karamchari, it may be observed here that the basis for the Commission to come to the conclusion could only have been the finding of the Apex Fact Finding Body ie the Caste Scrutiny Committee. The Committee in its first report dated 31.12.2024 having come to the categorical finding that the petitioner belongs to the Teli (Muslim) caste and even in its second report contained in memo dated 11.4.2025 only observed that the petitioner had not produced any other evidence in support of his caste except hibbanama and that the benefit of reservation under the Act of 1991 (which this Court has held to be not applicable) cannot be given to the petitioner on account of his not being a resident of Bihar, in the opinion of the Court, the State Election Commission clearly committed an error in applying Act of 1991 in the case of election of the petitioner as a Mukhiya and recommending action against the concerned Circle Officer in absence of any supporting finding to the said effect by the Caste Scrutiny Committee.

48. So far as the judgments relied upon by the

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learned counsel for the State Election Commission and learned counsel for the respondent no.9 are concerned, it may be observed here that in the case of **Bindu Devi vs. State of Bihar; 2024 (2) PLJR 103**, the petitioner who belonged to a caste under the Backward Class (BC) category in the State of Uttar Pradesh came to Bihar by reason of marriage. She was not given the benefit of reservation under the Panchayat Raj Act on the ground of belonging to the OBC category in the State of Uttar Pradesh as under the Act in Bihar reservation is given only to persons belonging to EBC category. So far as the fact of the instant case is concerned, the petitioner has not moved to Bihar on account of his marriage but his ancestors from 3-4 generations above have been residing in Bihar for the last 125 years. Further, the Caste Scrutiny Committee has also not come to the conclusion that the petitioner does not belong to Teli (Muslim) caste nor has it recommended for cancellation or cancelled the caste certificate of the petitioner.

49. In the case of **Manoj Prasad vs. State Election Commission; 2023 (4) PLJR 6,** the petitioner therein had contested the election of Mukhiya on the seat reserved for EBC declaring himself to be Dangi caste though he belonged to Koeri (Kushwaha) which came under the OBC category. The

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petitioner had described himself in the sale deed of a land purchased by him in the year 2018 as belonging to Koeri caste. Dangi was a different caste from Koeri caste which came to be included under OBC in the year 1995 and in 2015 under EBC. The Caste Scrutiny Committee came to a finding that the petitioner does not belong to Dangi caste but to Koeri caste and thus cannot contest from a seat reserved for EBC category. The facts of the said case have no application whatsoever to the instant case and are thus of no assistance to the respondents.

50. In **Khushboo Ara vs. State of Bihar; 2023 (3) PLJR 560**, while the petitioner contested for Mukhiya on a seat which was reserved for the EBC category, an application was filed to disqualify her on the ground that she belonged to the caste of Sheikh which did not come under EBC. The matter was referred by the Commission to the department including the Caste Scrutiny Committee which came to the finding that the petitioner belongs to Sheikh caste and thus disqualified the petitioner. In the instant case, while in the first report, the three member Committee found the petitioner to belong to the EBC category being Teli (Muslim), even in its second report it did not come to a conclusion that the petitioner does not belong to Teli (Muslim)/EBC category nor did it recommend for

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cancellation of caste certificate issued in favour of the petitioner. Thus, the instant judgment also is of no assistance to the respondents.

51. In view of the facts and circumstances of the case, taking into consideration the report dated 31.12.2024 of the three member Committee constituted on the directions of the Criminal Investigation Department (Weaker Section) finding the petitioner to be belonging to Teli (Muslim) caste on the basis of the oral and documentary evidence discussed in detail therein and the contents of the report dated 4.3.2025 of the Committee, this Court is of the opinion that both the Caste Scrutiny Committee in its report dated 4.3.2025 as also the State Election Commission in its order dated 25.6.2025 passed in Case no.56 of 2023 committed an error in applying Act of 1991 as also Amending Act 15 of 2003 in the case of reservation to the post of Mukhiya.

52. In view of the facts and circumstances of the case, the proceedings of the Caste Scrutiny Committee dated 28.3.2025 contained in memo no.6574 dated 11.4.2025 as also the order contained in memo no.2876 dated 25.6.2025 passed in Case no.56 of 2023 (Subhash Kumar vs. Md. Isa) by the State Election Commission, Bihar both being unsustainable are

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hereby set aside.

53. The writ application is allowed.

(Partha Sarthy, J)

Saurabh/-

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