IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.

Writ Petition No. 5890 of 2015

Deepali D/o. Marotrao Ingewad,
Age : 26 years,
Occupation : Service,
R/o. 1/11/211, Manai Nivas,
Sant Dnyneshwar Nagar (Extended),
Near Ring Road, Nanded,
Taluka & District : Nanded. .. Petitioner.

versus

1. The State of Maharashtra,
   Through Secretary to Tribal Development
   Department, Mantralaya, Mumbai.

2. The Sales Tax Deputy Commissioner (Estb.-4),
   Office of Special Sales Tax Commissioner,
   323, 3rd Floor, Vikrikar Bhavan, Mazgaon,
   Mumbai - 10.

3. The Sales Tax Joint Commissioner,
   "Mothe Kardate Kaksh",
   Office of Special Sales Tax Commissioner,
   323, 3rd Floor, Vikrikar Bhavan,
   Mazgaon, Mumbai - 10.

4. The Scheduled Tribe Certificate
   Verification Committee, Aurangabad,
   Through its Deputy Director [R],
   Aurangabad. .. Respondents.

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Mr. S.M. Vibhute, Advocate, for the petitioner.

Mr. S.K. Kadam, Assistant Government Pleader,
for respondent nos.1 to 3.

Mr. A.B. Tele, Advocate, for respondent no.4.

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CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.

DATE : 10TH JULY 2015

ORAL JUDGMENT *(Per A.M. Badar, J.)* **:**

1. Heard learned Counsel for respective parties.

2. Rule. Rule made returnable forthwith. By consent, the petition is taken up for final hearing.

3. Shri Vibhute, the learned Counsel for the petitioner, submitted that the claim of the petitioner, for *'Mannervarlu'* - Scheduled Tribe, is pending scrutiny with respondent no.2 - Scrutiny Committee. According to him, the petitioner is working as Sales Tax Inspector with respondent - State and during pendency of validation proceedings of her tribe claim, respondent - State, by the impugned notice dated 5th June 2015, threatened to terminate her services, in the event of failure to submit validity certificate.

4. Shri Tele, the learned Counsel appearing for respondent no.2 -

Scrutiny Committee, is not disputing the fact that the tribe claim of the petitioner is pending scrutiny with respondent no.2 - Committee.

5. We have also heard the learned Assistant Government Pleader appearing for the State and its authorities. According to the learned Assistant Government Pleader, though period of six months has lapsed after referring the tribe claim of the petitioner for scrutiny, as no validity certificate is received by the Sales Tax Department, it is proposed to terminate services of the petitioner.

6. It is not within powers of the petitioner to get her tribe claim decided from respondent no.2 - Scrutiny Committee. Her employer has already referred the tribe claim to the Committee and Shri Tele, the learned Counsel appearing for the Scrutiny Committee has fairly submitted that it will take time of, at least, nine months to decide tribe claim of the petitioner. In such eventuality, the respondent - State and its authorities are not justified in threatening termination in the event of non-submission of validity certificate by the petitioner. The petition, therefore, needs to be allowed.

7. In the result, the petition is allowed.

[A] Respondent no.4 - Scheduled Tribe Certificate Verification Committee is directed to decide tribe claim of the petitioner, within a period of 12 [Twelve] months from today, after following due procedure of law.

[B] Respondent nos.1 to 3 are restrained from taking any coercive action against the petitioner, on account of non-submission of tribe validity certificate, till her tribe claim is decided by respondent no.4 - Scrutiny Committee, and thereafter for a further period of two weeks.

8. Rule is made absolute in the above terms. There shall be no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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