

IN THE HIGH COURT OF BOMBAY AT GOA**CIVIL APPLICATION (REVIEW) NO.18/2015**

1. The Deputy Collector & SDO,
Mapusa Sub-Division
Government of Goa,
Mapusa, Bardez, Goa.
 2. Scrutiny Committee of Caste
Certificates, Government of Goa,
having office at Secretariat,
Porvorim, Goa.
 3. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa. .. Applicants
- IN
- Mr. Zacarias Mendes son of
Lucio Mendes, Aged 38 years,
Indian National, resident of
Naikawaddo, Bardez, Goa403510 .. Petitioner

VERSUS

1. Milton Olumpia Marques son of
Olumpia Marques, aged 52 years,
Indian National
r/o House No. 250, Pintowado,
Verla, Parra, Bardez, Goa 403510.

2.The Deputy Collector & SDO,
Mapusa Sub-Division
Government of Goa,
Mapusa, Bardez, Goa.

3. Scrutiny Committee of Caste
Certificates, Government of Goa,
having office at Secretariat,
Porvorim, Goa.

4. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa. .. Respondents

Mr. P. Faldessai, Additional Government Advocate for the applicants/ original respondent nos.2 to 4.

Mr. D. J. Pangam, Advocate for the respondent/ original petitioner.

CORAM :- F. M. REIS, &

C. V. BHADANG, JJ

DATE : 23rd November, 2015

ORAL ORDER : (Per F. M. REIS, J.)

Heard Shri Faldessai, the learned Additional Government Advocate appearing for applicants and Shri Pangam, the learned Counsel appearing for the respondent.

2. This is a Review Petition filed by the applicants, essentially, on the ground that this Court, while disposing of the Writ Petition No.387/2014, by judgment dated 11/03/2015, has come to the conclusion that the Scrutiny Committee constituted by the State Government was not in conformity with the directions issued by the Apex Court in the judgment in the case of ***Madhuri Patil and another versus Additional Commissioner, Tribal Development and others***, reported in 1994(6) SCC 241. Shri Faldessai, the learned Additional Government Advocate appearing for the applicants has pointed out that in terms of the direction no.4 in the said judgment, the

expert, to be a member of such committee is only with regard to Scheduled Caste and Scheduled Tribes and there is no reference to OBC. The learned Additional Government Advocate further points out that besides such expert, out of the other two members, one has to be a higher officer than Joint Secretary and the second member has to be a Director of Social Welfare of the concerned Department. The learned Counsel further points out that one of the members is in fact the Secretary of the concerned Department and the other member is a Director of the Social Welfare Department and as such, according to him, both of them meet the requirements of the directions issued by the judgment in the case of **Madhuri Patil** (supra). The learned Additional Government Advocate further points out that as far as the third member is concerned, though he is nominated by designation namely, Dean / Director (Administration), Goa Medical College, but however, there is no direction to appoint an expert in connection with the Scrutiny Committee of OBC certificate, nevertheless such person is in fact an expert in such field. The learned Additional Government Advocate has taken us through the direction no.4 of the judgment in the case of **Madhuri Patil** (supra) to point out that there is no direction therein to the effect that even for the scrutiny of OBC certificate, an expert of backward class is required.

3. On the other hand, Shri Pangam, the learned Counsel for the respondent has disputed the said contention. The learned Counsel, however, accepts that as far as the first member is concerned, he is a Secretary of the concerned Department and meets the requirement of the directions issued in the case of **Madhuri Patil** (supra). So also, the Director of Social Welfare also meets the criteria as directed in the case of **Madhuri Patil** (supra). But however, Shri Pangam strongly opposed the contention of the learned Additional Government Advocate that the directions issued by the Hon'ble Apex Court, does not contemplate that an expert of Backward Class has to be a member of such Committee. The learned Counsel as such, points out that there is no error apparent on the face of record in the impugned judgment for considering its review. The learned Counsel further points out that the above contention is also not specifically raised in the Review Petition.

4. We have considered the submission of the learned Counsel for the parties and we have also gone through the record. After examining the material placed before this Court, this Court has come to the conclusion recorded while disposing of W.P.No.387/2014, by judgment dated 11/03/2015 that the Director (Administration), Goa Medical College cannot be considered to be a person having intimate knowledge in respect

of Scheduled Caste and Scheduled Tribes or the matters therein. In such circumstances, we find that there is no error apparent on the face of record with regard to the appointment of the Director of Administration, Goa Medical College, as this Court has come to the conclusion that the Director (Administration), Goa Medical College was not a person conversant with the Backward Class to be a member of such Committee. Besides that, there is no material produced on record in support of such contention by the learned Additional Government Advocate appearing for the applicants. It is also not disputed that the judgment passed by this Court was challenged before the Apex Court and the Special Leave Petition came to be dismissed.

5. In so far as the other two members are concerned, Shri Pangam, the learned Counsel appearing for the respondents fairly accepts that they meet the requirement in terms of the directions issued in the case of **Madhuri Patil** (supra).

6. With such observations, Review Petition stands rejected.

C. V. BHADANG, J.

F. M. REIS, J.

SMA