

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 3737 OF 2001**

Shri Pravin Pandurang Ingale,
Adult, C/o. Shri Ashok Pandurang
Jugale, resident of Padwal Apartment,
Above Sonal Stores, Takali Road,
Behind Gandhi Nagar,
Nasik-422 006.

....Petitioner.

Vs.

- 1 State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya,
Mumbai -400 032.
- 2 Committee for Scrutiny and
Verification of Tribe Claims
through its Deputy Director (R)
and Member-Secretary having
its office at Giri Peth,
Nagpur.
- 3 Divisional Controller,
State Transport, Akola,
- 4 Divisional Controller,
State Transport, Mumbai
Division, Kurla, Mumbai-70.
- 5 Maharashtra State Road
Transport Corporation
through its General Manager,
(I.R. & P.), Transport Bhavan,
Mumbai Central, Mumbai.

....Respondents.

Mr. R.K. Mendadkar, a/w Ms. Helen Koli-Mandlik for the Petitioner.
Mr. C.P. Yadav, AGP for Respondent Nos. 1 and 2.
Mr. C.M. Lokesh i/by G.S.Hegde for Respondent No.5.

**CORAM : ANOOP V. MOHTA AND
A.A. SAYED, JJ.
DATE : 19 OCTOBER 2015.**

ORAL JUDGMENT (PER ANOOP V. MOHTA, J.):

Matter is taken out from the final hearing board.

Heard the learned counsel appearing for the respective parties.

2 The Petitioner's claim was rejected by the Scrutiny Committee. As the order passed by this Court allowing the Petition was challenged in the Apex Court, by order dated 31 October 2006, the Hon'ble Supreme Court remanded back the matter for re-consideration. Pending the hearing, affidavit dated 18 May 2005 is placed on record by the Petitioner, referring to the genealogy/genealogical tree and it is pointed out the Petitioner's niece Kum. Ashwini Ashok Ingle, has already been issued caste validity certificate as belonging to "*Thakur Scheduled Tribe*". The affidavit remained uncontroverted. The validity certificate issued in favour of the paternal side relatives, in our view, is important factor to grant the

relief in favour of the Petitioner, as the Petitioner's claim for the same Caste Certificate is pending since 2001. The submission of the learned counsel that the affidavit filed first time in the Writ Petition is in no way sufficient to deny the prayers so made in the present Petition. To avoid further delay in the matter, as the Petitioner is admittedly in service since 1995 with Respondent Nos. 3 to 5, we are inclined to grant the following reliefs.

3 This is also for the reason that this Court in Sanjay Bajirao More & Ors. Vs. State of Maharashtra & Ors. (Writ Petition No. 5831 of 2015, dated 19 October 2015), apart from earlier orders, has specifically dealt with the importance of paternal side caste certificate and directed to give the benefits so claimed to such claimants and also directed to issue Caste Validity Certificate forthwith by observing that:-

“12 It is necessary to make the following observations before the final order:-

(a) *Unless a case of fraud or misrepresentation is made out, the Scrutiny Committee should not overlook the caste validity certificates issued to the paternal relatives and reject the caste claim of the similarly placed relatives/claimants.*

(b) *Mere allegations of fraud and misrepresentation is not*

sufficient to reject the caste claim, unless it is proved after due inquiry and trial by the Competent Court/Authority in accordance with law.

- (c) The decided caste claim of the relatives should be given effect and/or importance, for an adjudication of caste validity of the other relatives before granting or rejecting the similar caste claim.*
- (d) Unless exceptional case is made out, the Scrutiny Committee or other Authority, needs to pass final order based upon the paternal relative's caste validity certificates without delay.*
- (e) The inquiry needs to be made of the issue about “restricted area”, as elaborated and discussed in the Judgments of Madhuri Nitin Jadhav (Supra) and Pramodkumar N. Wagh (supra) only in case where, there is no proved material to support; like paternal and/or relatives caste certificates.*
- (f) The case that claimant is not entitled for the certificate in view of “area restriction”, may be re-considered inspite of relatives certificates, if a case of fraud and misrepresentation is made out and not on mere allegations. However, it is also subject to grant of opportunity to all the concerned.”*

4 There is no case of fraud and/or misrepresentation and the caste validity certificate of paternal side relatives has attained finality, in this case also. Therefore, taking overall view of the matter and in view of the facts and position of law, we are inclined to grant prayer clauses (b) and (c). However, it is made clear that order be

implemented as early as possible, preferably within eight weeks from the date of communication of this order.

5 Writ Petition is accordingly allowed in terms of prayer clauses (b) and (c).

6 Rule made absolute accordingly. There shall be no order as to costs.

(A.A. SAYED, J.)

(ANOOP V. MOHTA, J.)