

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9356 OF 2014

- 1 Pramodkumar Narendrakumar Wagh)
aged 34 years)
- 2 Sheetal Narendrakumar Wagh)
aged 27 years)
- 3 Yogeshkumar Narendrakumar Wagh)
aged 31 years)
All residing at Indraprastha C.H.S. Ltd.)
Building No.6, Flat No.303, Opp. Gajanan)
Mandir, M.K.Road, Kalyan (W), Dist.Thane)... Petitioners

V/s.

- 1 State of Maharashtra)
through its Secretary, Tribal Development)
Department, Mantralaya, Mumbai-32)
- 2 Scheduled Tribe Certificate Scrutiny)
Committee, Konkan Division, Thane,)
through its Member Secretary having its)
office at Vartak Nagar, Ward Committee)
Office, Vedant Complex, Opp. Kores Co.)
Vartaknagar, Thane(W), Dist. Thane)... Respondents

Mr.R.K.Mendadkar a/w Smt.Helen Koli-Mandlik & Chintamani Bhangoji
for petitioners.

Mr.C.P.Yadav AGP for respondent nos.1 & 2.

**CORAM: ANOOP V.MOHTA &
K.R.SHRIRAM, JJ.**

DATED : 23rd April, 2015.

Oral Judgment : (Per : Anoop V.Mohta,J) :

1 Rule returnable forthwith. Heard finally by consent of parties.

2 The petitioners have challenged the impugned order passed by the Scrutiny Committee on 1.8.2014 whereby their caste claim validity certificates i.e., being belonged to Thakar has been rejected by overlooking the certificates granted to the paternal Uncle and cousin though certificates have a foundation of orders passed in favour of Uncle as well as cousin in Writ Petition No.4525 of 1998 and in Writ Petition No.7271 of 2009.

3 The authority thereby has overlooked the concept of “paternal relatives as defined in Rule and also the judgment passed by this court in Writ Petition No.7271 of 2009 dated 24.2.2010 (Coram : A.M.Khanwilkar & S.S.Shinde,JJ) which ultimately even confirmed in the Supreme Court.

4 The Hon'ble Supreme Court in Amruta Vijay More Vs. State of Maharashtra & Ors. in Civil Appeal No.7230 of 2011 arising out of SLP (c) No.29364 of 2010 observed as under :-

“..... In the instant case, Caste Screening Committee had clearly found father, paternal uncle, brother and paternal cousins of the appellant to belong to Thakur, Scheduled Tribe. Subsequent decision of the screening committee solely on the basis of affinity test, in our

view, does not stand to scrutiny.....”

5 The Division Bench of this Court (Coram : Anoop V.Mohta & M.S.Sonak,JJ) in Writ Petition No.8987 of 2010 filed by one Priti Komalsingh Thakur observed as under :-

“.....It is difficult to accept the situation in the society that the caste of the father, two brothers and or other relations are different than as of the son/petitioner, though there may be some material as observed by the scrutiny committee”

6 The Division Bench of this court (Coram : Anoop V.Mohta & F.M.Reis,JJ) in the case of Pranav Prakash Mandlik Vs. State of Maharashtra and ors. reported in 2014 (6) Mh.L.J.449, after considering the catena of decisions cited therein, allowed the said Writ Petition and directed the scrutiny committee to issue validity certificate within a period of 2 weeks from the date of receipt of the said order.

7 The Division Bench of this Court, Bench at Nagpur (Coram : B.R.Gavai and Smt.Mridula Bhatkar,JJ) after considering the landmark decision in the case of Apoorva Nichale, allowed the Writ Petition No.326 of 2015 on 30.1.2015 filed by the petitioner therein, and passed strictures on the functioning of the scrutiny committee constituted by the State of Maharashtra which is evident from page no.8, para-11. The concerned respondents were also

saddled with cost which is evident on page-9, para-13 of the said judgment.

8 The respondents filed a reply and resisted the petitioners' claim in every aspect by referring to other judgments and by overlooking the judgments so cited above mainly on the ground that the scrutiny committee has power and the authority and as need to appreciate each and every case on its own merits. There cannot be issue on this point. But in a situation where relatives' caste validity certificate having been granted on the basis of orders passed by this court and the Supreme Court, the scope and authority of Scrutiny Committee in such matters is very limited. Law nowhere permits them to reopen and re-appreciate the material by overlooking the conclusions so drawn in favour of relatives. This is not the case where any allegations and/or material and/or even observation made at any point of time that the petitioners' relatives have committed any fraud and/or mis-representations while getting those validity certificate that they belong to Thakur community. There is nothing on record to show that even the respondents have challenged those validity certificates on this ground. Therefore, we are inclined to observe that the Scrutiny Committee by passing such orders by overlooking the orders passed by this Court as well as Supreme Court, definitely dis-respecting the conclusions so drawn by the court. Such attitude, in our view, is deprecated. This is not the case where even the relations are in dispute. The State Government, in

our view, required to take steps against such Scrutiny Committee and/or officers who are passing such orders by overlooking the judgments passed by the Supreme Court and this courts directly on the issues after taking into consideration the relatives' caste validity certificates. Appropriate circular and/or direction is required to be issued in this regard so that it will save time and energy of every one including of Courts.

9 In view of above, we are inclined to pass the following order :-

ORDER

- (1) The petition is allowed in terms of prayer clauses-
(a) and (b) ;
- (2) Rule made absolute accordingly. No costs ;
- (3) It is made clear that the respondent-authority to issue certificate as early as possible preferably within 8 weeks.

(K.R.SHRIRAM, J.)

(ANOOP V.MOHTA,J)