

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10762 OF 2013

Mrs. Alka Kailas Ahire. .. Petitioner

Vs

The Caste Scrutiny Committee No.1,
Nashik Region, Nashik, and Others. .. Respondents

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Shri Tejesh Dande i/by Tejesh Dande & Associates for the Petitioner.

Mrs. M.P. Thakur, AGP for Respondent Nos.1 and 3.

Shri Prashant Daulatrao Patil for Respondent No.2.

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CORAM : A.S. OKA & A.K.MENON, JJ

DATED : 29TH JANUARY 2015

PC.

. The learned AGP on instructions of Mrs.Rita Tekawade, the Law Officer, states that there is no reasoned order passed by the Caste Scrutiny Committee while granting caste validity certificate dated 15th January 2012 to the Second Respondent.

2. By the order dated 17th September 2013, the Caste Scrutiny Committee has purported to make an adjudication on the complaint filed by the Petitioner. After grant of caste validity certificate on 15th January 2012, the Caste Scrutiny Committee had no jurisdiction to again decide the issue of caste claim of the Second Respondent. Therefore, the said order dated 17th September 2013 is without jurisdiction.

3. The learned counsel appearing for the Second Respondent states that even if the order of remand is passed by setting aside the caste validity certificate dated 15th January 2012, the Second Respondent may be protected. He has relied upon what is held by a Division Bench of this Court in the decision in the case of Rajesh Bharat Latkar v. State of Maharashtra and Others¹.

4. The said decision holds that the action under Section 10 of The Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 cannot be taken unless after holding that the caste certificate procured by a candidate is a false certificate, the same is ordered to be cancelled by the Caste Scrutiny Committee. If the said decision still continues to operate, it will protect the Second Respondent.

5. As the impugned caste validity certificate has been granted without holding an appropriate inquiry in accordance with law and without recording reasons, we are proposing to set aside the same. Obviously, at this stage, the caste certificate obtained by the Second Respondent cannot be cancelled and ultimately, all the issues are

¹ 2012(4)Mh.L.J. 83

required to be decided by the Caste Scrutiny Committee. The Second Respondent can always bring the law laid down by the Division Bench of this Court in the case of Rajesh Bharat Latkar to the notice of the Commissioner of the Municipal Corporation, Nashik.

6. We, accordingly, dispose of the Petition by passing the following order:

ORDER :

- (a) The impugned caste validity certificate dated 15th January 2012 issued by the First Respondent Caste Scrutiny Committee is hereby quashed and set aside. Even the order dated 17th September 2013 is hereby quashed and set aside;
- (b) We direct the Petitioner and the Second Respondent to appear before the First Respondent Caste Scrutiny Committee on Monday the 23rd February 2014 at 11.00 a.m. for fixing the schedule of the hearing;
- (c) We direct the Caste Scrutiny Committee to hold a fresh inquiry on the caste claim of the Second Respondent in accordance with law;

- (d) Considering the urgency involved, the Caste Scrutiny Committee shall endeavour to pass a final order as expeditiously as possible and preferably by the end of May 2015;
- (e) We make it clear that it will be open for the Petitioner and the Second Respondent to produce additional documents before the Caste Scrutiny Committee;
- (f) We make it clear that we have not made any adjudication on merits of the caste claim of the Second Respondent and all contentions on merits of the caste claim of the Second Respondent are expressly kept open;
- (g) The Petition is disposed of on above terms;
- (h) The parties to act upon an authenticated copy of this order.

(A.K.MENON, J)

(A.S. OKA, J)