

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

WRIT PETITION NO. 3194 of 2011

(Zahoor Ahmed s/o Noor Ahmed Vs. Divisional Caste Scrutiny Committee,
 New No. 2, Amravati Division, Akola
 and ors.)

.....
 Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

.....
 Shri R. D. Karode, Advocate for the petitioner
 Shri S. V. Sohoni, Advocate for respondent no. 2
 Shri M. A. Kadu, AGP for respondent nos. 1 & 3

**CORAM : B.P.DHARMADHIKARI &
 S. B. SHUKRE, JJ.**

DATE : 28-4-2015.

Heard respective Advocates for the
 parties.

2. Writ petition was dismissed by this Court on 24-7-2013 and by allowing MCA No. 815/2013 on 27-2-2015, it has been restored back to file. While restoring writ petition, the interim orders granted in MCA on 23-8-2013 were also continued in writ petition.

3. When review was considered, Advocate Shri Sohoni was not available and the matter proceeded in his absence.

.....2/-

4. As review was allowed and writ petition was restored, the employer was not aware of the interim orders. Shri Sohoni, learned Advocate pointed out that after restoration, writ petition was listed on 11-3-2015 and nobody appears on that day for petitioner. It was again listed on 20-3-2015 and even on that day, there was no appearance on behalf of petitioner and hence this Court dismissed the writ petition. It is on that background that on 9-4-2015, employer issued an order of reversion. The petition was also restored back to file on the same date. After getting knowledge of these developments, the said order of reversion has been withdrawn.

5. Shri Karode, learned Advocate for petitioner submits that he has not received any instructions about withdrawal of said order. However, we accept the statement made by Advocate Shri Sohoni.

6. While allowing review on 27-2-2015, this Court has noted law laid down by the Division Bench of this Court in the case of ***Vijay Kisan Karanjkar Vs. State of Maharashtra and ors.*** reported at ***2004(1) Bom. C.R. 168***. The

contention of learned Advocate for the petitioner is that impugned order is not valid as the application of mind therein is not by complete Divisional Caste Scrutiny Committee but only by two of its Members and impugned order is signed by only one Member i.e. Research Officer.

7. Advocate Shri Sohoni as also learned AGP point out that impugned order carries a note that it is approved by three Members of the Committee.

8. Perusal of the impugned order dated 11-3-2010 at Annexure-9 with the petition shows a statement in paragraph 11 that as per Government Resolution dated 25-1-2000, two Members of the Committee can hold hearing. The request made by the petitioner on 16-3-2011 was accepted by the Committee and it closed the matter for orders. Obviously, date 16-3-2011 is subsequent to the date of impugned order. Similarly, after operative part of the order invalidating caste certificate, signature of one Mr. Ingle in his capacity of Research Officer and Member Secretary only

appears. He has put a note there that original order is approved by all three Officers. This note appears to be put after he signed it. Thus he prepared the order which has been approved by other three officers. The names and designation of other three officers are not apparent. Whether these three officers include Shri Ingle or not is again a moot question. In this situation, for reasons recorded while passing orders in review petition on 27-2-2015 and this discussion, we find impugned order dated 11-3-2010 at Annexure-9 is unsustainable. It is, accordingly, quashed and set aside.

9. Proceedings are restored back to respondent no. 1, Committee.

10. The petitioner shall appear before the respondent no. 1, Committee on 15-6-2015 and shall abide by its further directions in the matter. The Committee shall complete the verification of caste claim of the petitioner in accordance with law within next eight months.

11. The interim order in force today shall continue to operate and shall be subject to decision of respondent no. 1, Committee.

The writ petition is thus partly allowed
and disposed of. No costs.

JUDGE

JUDGE

wasnik

...../-