

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3746 OF 2015

Saraswati Hansu Kawadati

-vs-

Schedule Tribe Certificate Scrutiny Committee, Nagpur and others

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

Court's or Judge's Orders.

Mr.Firdos Mirza, counsel for the petitioner.
Mr.N.R.Patil, AGP for the respondent Nos.1 and 2.
Mr.K.V.Deshmukh, counsel for the respondent Nos.4 to 6.

CORAM : SMT. VASANTI A. NAIK &
PRASANNA. B. VARALE, JJ.

DATE : 21.12.2015.

By this petition, the petitioner impugns the order of the respondent-Scrutiny Committee, dated 06/06/2015 invalidating the claim of the petitioner of belonging to Gond-Scheduled Tribe.

On hearing the learned counsel for the parties and on a perusal of the order of the Scrutiny Committee, it appears that the Scrutiny Committee has held that since the petitioner had migrated from Madhya Pradesh and on the deemed date i.e. 06/09/1950, the petitioner was a resident of Madhya Pradesh, the petitioner would not be entitled to the benefits of Gond Scheduled Tribe in the State of Maharashtra, and she would be entitled to claim the benefits that are meant for the Gond Scheduled Tribe in the State of Madhya Pradesh. It appears that while holding so, the Scrutiny Committee has considered the provisions 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 Rules, 2012.

The learned Assistant Government Pleader for the respondent Nos.1 and 2 states that the issue involved in this writ petition stands answered against the petitioner by the order, dated

03/07/2015 in Writ Petition No.2959 of 2014 (Umashankar Kashiram Daheriya v. Divisional Caste Certificate Scrutiny Committee and others). It is stated that after considering the Rules of 2012 and the judgment of the Full Bench, reported in **2010 (2) Mh.L.J. 904 (Shweta Santalal Lal v. State of Maharashtra)**, this Court has held that a migrant belonging to a scheduled caste not ordinarily residing in the area, that now constitutes the State of Maharashtra, on 10/03/1950, would not be entitled to the benefits of reservation to the scheduled castes in the State of Maharashtra. It is stated that the judgment of the Full Bench, reported in **2010 (2) Mh.L.J. 904** would squarely apply to the case in hand.

On a perusal of the judgment of the Full Bench, reported in **2010 (2) Mh.L.J. 904** and the order dated 03/07/2015 in Writ Petition No.2959 of 2014 as also the Rules of 2012, it appears that the petitioner cannot effectively challenge the order of the Scrutiny Committee holding that the petitioner would not be entitled to the benefits meant for the Gond (Scheduled Tribe) in the State of Maharashtra, as the petitioner is a migrant from the State of Madhya Pradesh and was not residing in the State of Maharashtra on the deemed date.

Hence, for the reasons recorded in the judgment of the Full Bench, reported in **2010 (2) Mh.L.J. 904** and the order, dated 03/07/2015 in Writ Petition No.2959 of 2014, we dismiss the writ petition with no order as to costs.

The prayer made by the learned counsel for the petitioner for staying the effect and operation of this order for a period of four weeks is strongly opposed by the learned Assistant Government Pleader and the learned counsel for the respondent Nos.4 to 6 by stating that the petitioner was wrongfully holding the membership of the Municipal Council, though the petitioner is not a scheduled tribe in the State of Maharashtra.

In the circumstances of the case, we reject the prayer for stay. Order accordingly.

JUDGE

JUDGE