

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MCA NO. 815/2013 IN WRIT PETITION NO. 3194 OF 2011

(Zahoor Ahmed s/o Noor Ahmed vs. Divisional Caste Scrutiny Committee, Amravati Division, Akola & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
FEBRUARY 27, 2015.**

Heard Shri Karode, learned counsel for the review applicant/ original petitioner and Shri Kale, learned AGP for respondent Nos. 1 & 3.

Shri Sohoni, learned counsel, who appears for respondent No. 2 is stated to be not available. However, because of interim orders passed by this Court, while issuing notice in review petition on 23.08.2013, the review applicant continues in employment of Respondent No. 2.

The submission of Shri Karode, learned counsel is, the Scrutiny Committee which has passed the order impugned in writ petition i.e. order dated 11.03.2010 then consisted only of two members and the order is signed only by one of them. He, therefore, states that the order is unsustainable. The support is being taken from the judgment of this Court in the case of Vijay Kisan Karanjkar vs. State of Maharashtra & Ors., reported at 2004 (1) Bom. C.R. 168.

The learned AGP submits that the Scrutiny Committee while passing the impugned order was alive to this issue and by expressly mentioning the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, (Act No. 23 of 2001) and Government Resolution dated 25.01.2000, the Committee has proceeded further.

A perusal of Division Bench judgment mentioned supra shows that question of quorum of Scrutiny Committee was the issue before said Division Bench. Division Bench has found that in the light of judgment of the Hon'ble Apex Court in the case of Kum. Madhuri Patil vs. Additional Commissioner, Tribal Development Thane, 1994 (6) SCC 241, as modified subsequently, the Committee must consist of three members and hence the order passed in that matter was set aside. This judgment is also followed subsequently in the case of Amrutlal Manohar Kanjariya vs. State of Maharashtra & Ors., reported at 2013 (2) Bom. C.R. 549, where again same view has been reached.

One of us (B.P. Dharmadhikari, J.) while sitting in Division Bench on 23.06.2011 remanded the matter after setting aside similar order of Scrutiny Committee in Writ Petition No. 1478 of 2011.

In this situation, prayer in MCA is granted.

The orders of this Court dated 24.07.2013 are recalled and Writ Petition No. 3194 of 2011 is restored back to file for its reconsideration on merits.

List the said writ petition for admission as per roster assignment on 10.03.2015.

Interim orders granted by this Court in MCA on 23.08.2013 to continue as interim orders in Writ Petition until further orders.

JUDGE

JUDGE

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