

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8116 OF 2016

Kalpana D/o Bhimrao Bute,
Age: 35 years, occu: Service,
R/o Plot No.15, gat No.94/P
Saptashringi Nagar, Beed Bypass,
Satara parisar, Aurangabad

Petitioner

Versus

- 1 The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai – 32
through: Its Secretary
- 2 The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary
- 3 The Taluka Executive Magistrate,
Aurangabad
- 4 The Collector / Sub Divisional Officer,
Aurangabad
- 5 The Commissioner,
Social Welfare, Maharashtra State,
3, Church Path, Pune – 411 001
- 6 The Assistant Commissioner,
Social Welfare,
Dr. Babasaheb Ambedkar
Samajik Nyaya Bhagvan, Nagar Road,
Beed.

Respondents

Mr. M.A. Golegaonkar & Mr. A.S. Golegaonkar advocates for the
petitioner

Mr.P. S. Patil, Assistant Government Pleader for Respondents

CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ

(Date : 28th July, 2016.)

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final decision at admission stage.

3 The petitioner claims to belong to *Koli Mahadev*, scheduled tribe and she did receive a certificate issued by the competent authority, certifying that she belongs to *Mahadev Koli*. On the strength of the caste certificate, the petitioner secured employment as a Warden in the social welfare department and was posted at Beed. The tribe certificate issued to the petitioner was referred to Respondent No.2 committee for verification. However, the scrutiny committee took a view that the tribe certificate issued to the petitioner is not in proper form and the tribe recorded therein is not in conformity with the Constitution order. As such, the committee directed invalidation of the caste certificate and granted liberty to the petitioner to submit proper

certificate and present the same for verification.

4 In the meanwhile, the employer directed termination of the petitioner on 4.7.2016.

5 The issue raised in the instant petition is no more *resintegra* and is covered by the Judgment dated 14th August, 2014 delivered by division bench of this Court in the matter of *Prakash Subhash Bhopale versus Deputy Collector (General)* and others in Writ petition No.4536 of 2014 and other companion matters. This Court, while dealing with the said petitions granted liberty to the petitioners to secure proper certificate and produce the same for verification to the committee.

6 For the reasons recorded in the Judgment in the matter of *Prakash Subhash Bhopale versus Deputy Collector (General) and others*, the instant petition also deserves to be allowed and the same is accordingly allowed in the following terms:-

The petitioner shall produce the certified/true copy of the tribe certificate issued to her which she produced before the scrutiny committee to the sub Divisional Officer/competent authority i.e. respondent No.4 herein, together with an application for issuance of tribe certificate in proper form, within a period of

seven days from today. On receipt of the application, the Sub divisional Officer, Aurangabad shall issue the Tribe certificate in prescribed form, without embarking upon further inquiry into the matter, certifying that, the petitioner belongs to *Koli Mahadev* within seven days. On receipt of tribe certificate from the competent authority, the petitioner shall produce the same for verification to respondent No.2 scrutiny committee, within a period of 15 days together with proposal for verification in proper form. On receipt of the proposal, respondent No.2 committee shall take decision on the tribe certificate verification proposal of the petitioner in accordance with rules and after extending opportunity of hearing to the petitioner, as expeditiously as possible and preferably within a period of 8 months from the date of receipt of proposal.

7 The order passed by respondent No.5 directing termination of services of the petitioner dated 4.7.2016 is quashed and set aside and the concerned respondent is directed to reinstate the petitioner in service subject, however, to the decision in respect of the tribe certificate verification proposal which would be tendered to respondent No.2 committee in pursuance to these directions. The petitioner undertakes to cooperate the scrutiny committee for expeditious disposal of tribe certificate verification proposal.

8 Rule is accordingly made absolute.

9 There shall be no order as to costs.

(A.I.S. CHEEMA, J)

(R.M.BORDE, J)

vbd