

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 104 OF 2016

Bandu Sampat Pawar .. Petitioner
V/s.
State of Maharashtra and ors. .. Respondents.

Mr. R.K. Mendadkar for the Petitioner.

Mr. A.B. Vagyani, GP a/w. Mr. N.C. Walimbe for Respondent Nos.1 to 3.

Ms Anjali Helekar a/w. A.A. Garge for Respondent No.4.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 07 OCTOBER 2016.

P.C.

1] The main contention of the writ petitioner is that no retired Judicial Officer is made as one of the Committee Members to be constituted under Section 6(1) of the Maharashtra Scheduled Castes, 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.

2] We have gone through the directions of the Apex Court in *Kumari Madhuri Patil and anr. Vs. Addl. Commissioner, Tribal Development and ors.*¹, where certain observations are made how the Committee should be constituted and who should be Members of the Committee in order to make an enquiry

¹ 1994 (6) SCC 241

whether a particular candidate or herself belongs to a particular tribe or caste. We have also gone through the judgments of this Court annexed to the writ petition.

3] Insofar as the directions of the Division Bench of this Court is concerned, there is no mandate or positive direction to include any retired Judicial Officer to be one of the Committee Members to be constituted under the State enactment. It was an opinion in the form of a desire of the Bench to make Judicial Officer (Retired) as one of the Committee Members, therefore, there is no mandate or obligation on the part of the State to appoint retired Judicial Officer. If voluntarily they intend to do so one need not have any objection. But there is no positive mandate which can be said as directions of the Court to appoint such Judicial officer as a Member of the Committee.

4] On the other hand, there is obligation to follow the directions of the Apex Court in the formation of the Committee and also the status of the Officer who should be the Members of the Committee. In a particular given case, if such directions are not followed it is open to the general public to raise voice expressing their grievance by challenging either by representation to the concerned authority or challenging notification on the ground of non-compliance of the directions of the Apex Court. Under these circumstances, we decline to interfere in the present petition having regard to grievance raised and the reliefs sought. However, the petitioner is at liberty to approach the Court or make

a representation depending upon the notification, if any, issued by the State Government.

5] In view of above, we dispose of the present petition.

(CHIEF JUSTICE)

(M.S.SONAK, J.)