

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7358 OF 2016

Swayamprabha Ulhas Pawar Petitioner
Vs.
State of Maharashtra & Others Respondents

Mr. R.K. Mendadkar with Mr. Chintamani K. Bhangoji
for the Petitioner.

Mr. A.B. Vagyan, Government Pleader with Mr. Vishal
B. Thadani, AGP, for the Respondent Nos.1 to 3.

Mr. D.P. Jagtap, Vice-Chairman, Mrs. A.P. Pilawar,
Member Secretary & Mr. Kakade, Law Officer
(Members of Caste Scrutiny Validity Committee,
Nashik - Respondent No.2) present in Court.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : JUNE 30, 2016

P.C:

1. When this writ petition was argued for some time and Mr. Vagyan found it difficult to sustain the impugned order, on instructions, he states that the order of the respondent No.2-Committee stands withdrawn and will not be given effect to.

2. He states that an opportunity be given to the Caste Scrutiny Committee (the respondent No.2) to pass a fresh order, uninfluenced by any earlier conclusions and which shall be rendered within a period of two months from today.

3. Ordinarily, we would accede to such request and straightaway. However, we find that the Caste Scrutiny Committee and particularly the Scheduled Tribe Certificate Scrutiny Committee, Nashik is repeatedly passing identical orders in relation to the claims of persons belonging to Thakur Scheduled Tribe. All orders are passed in a stereo-type and mechanical manner. This Committee is unmindful of the relevance of the Caste Validity Certificate issued to close relatives from the paternal side. It has brushed aside or discarded them without rendering any finding as to how they are vitiated by fraud etc., and which would enable them to ignore the same. Without any specific finding and conclusion of that nature, routinely such Caste Validity Certificates were discarded and we find much substance in that complaint of

Mr. Mendadkar.

4. Therefore, while we accept the statement of Mr. Vagyani, we direct that the proceedings now, on remand, shall not be heard by the Nashik Committee. They stand transferred to the Scrutiny Committee at Pune. That Scrutiny Committee will decide the petitioner's claim afresh and ignoring all the earlier observations, findings and conclusions. It shall not be influenced in any manner by the impugned order and which is withdrawn by the State.

5. We derive no pleasure when we pass such orders. When we take away the jurisdiction of a Competent Committee to decide a claim in accordance with law, it is with some pain and anguish that we do so. In matters after matters we have noticed that orders of remand have served no useful purpose. Same orders are passed again, after the earlier one is set aside, but with some minor modifications. It is nothing but a window dressing. The orders passed after remand also suffer from the same defects and which we found in the earlier orders. This is

peculiar to the claims in relation to Thakur Scheduled Tribe. Let there be no preconceived notions about the genuineness and authenticity of the claims or the certificates issued in the past. We hope that the Secretary in the Department will enlighten all the Committees on this aspect. Hereafter, we should have no occasion to direct such an exercise. If these are state of affairs, we shall be constrained then to go further and strip the Committee Members of their powers to scrutinize and verify the caste claims. We cannot allow the Committees to function like this and mechanically deny the claims in relation to Scheduled Castes and Tribes.

6. Let a copy of this order be forwarded to the Secretary in the Department of Tribal Development.

7. Needless to clarify that the petitioner's admission to a educational institution and which is pursuant to a direction of this Court, shall continue pending fresh scrutiny and verification, which shall now be done as expeditiously as possible and within a period of three months by the Pune

Committee.

8. The writ petition is allowed accordingly. No costs.

(DR. SHALINI PHANSALKAR-JOSHI, J.)

(S.C. DHARMADHIKARI, J.)