

Bhushan Rajesh Deore	}	Petitioner
versus		
State of Maharashtra and Ors.	}	Respondents

Ms. Sushma Bhende - AGP for respondent no. 1.

DATED :- JUNE 8, 2016

The petitioner has challenged the order passed on 18th September, 2015 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nashik.

2) The petitioner was issued a caste certificate dated 18th January, 2014 by the Sub Divisional Officer, Nashik, District Nashik. That certificate was referred for verification and scrutiny by the committee, as the petitioner was desirous of pursuing his education in the junior college. It is, therefore, the case of the petitioner that this caste certificate should be validated by the committee. On the strength of a validation certificate issued by the competent scrutiny committee, the petitioner can

obtain benefits and concessions meant for the concerned Scheduled Tribe.

3) The petition states as to how the petitioner belongs to Thakur Tribe, which is notified as Scheduled Tribe by the first presidential order of 1950. The petitioner clearly states that his family members hail from village Fagane of District Dhule.

4) Thereafter, the family settled in Nashik District. The petitioner relies upon the caste certificate issued to the grandfather and which certificate was found to be legal and valid. Copy of this caste certificate is annexed as Annexure 'B'.

5) Then, the petitioner relies upon similar certificate issued to his father, copy of which is at Annexure 'C'.

6) In para 6 of the petition, the petitioner narrates as to how the caste certificate issued to his father was invalidated by the similar committee by its order dated 21st August, 1998 (now it is clarified by Mr. Mendadkar that it is not the father but the grandfather of the petitioner). That order was challenged by filing Writ Petition No. 4013 of 1998, which came to be allowed by an order dated 11th September, 1998, copy of which is at page 24 of the paper book. The petitioner's father's caste certificate was also verified and scrutinised by the competent committee and

that came to be validated on 5th October, 1999. Reliance is placed in that regard upon Annexure 'E'.

7) The order passed on 5th October, 1999 by the committee reads as under:-

"CERTIFICATE OF VALIDITY

- Reference 1. Government Resolution, Tribal Development Department, No. STC-1895/C.No.182/D-X, dated 26.10.95.
2. Government Resolution, Tribal Development Department, No. STC-1098/C.No.33/D-X, dated 11.6.98.
3. Order passed by the Hon'ble High Court of Judicature at Bombay in Writ Petition No. 4813 of 98.
4. Order passed by the Scrutiny Committee dated 22.9.99

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Date: 05.10.99

WHEREAS the Hon'ble High Court of Judicature at Bombay have passed the order referred under reference 3 above and declared shri Pitambar Dhondu Deore as belonging to Thakur, Scheduled Tribe.

WHEREAS Shri Pitambar Dhondu Deore has filed an affidavit in this case that Shri Rajesh Pitambar Deore is his real son and the same is confirmed. Considering the above fact and after considering the various order passed by the Hon'ble High Court of Judicature at Mumbai in W. P. No.2746/98, 5454/98 and 856/98, the Caste Certificate of Shri Rajesh Pitambar Deore bearing No. EDN/POL II/ST.SC.SR.1635/1992 dated 31.12.1992 issued by the Sub Divisional Magistrate, Nasik City Dn., Nasik as belonging to Thakur, Scheduled Tribe is held **VALID.**

This certificate is applicable in this case only."

8) Mr. Mendadkar submits that the ground on which the committee has invalidated the certificate issued to the petitioner is illegal, unsound and untenable. Reliance is placed upon an

order passed in somewhat similar circumstances and in Writ Petition No. 4071 of 2016 decided on 29th April, 2016. There is no affidavit in reply filed in the writ petition nor any of the factual statements denied.

9) The only ground, on which the impugned order has been passed by the committee is that the caste certificate should have been issued in the district from which the petitioner migrated, namely, Dhule District and not Nashik. The caste certificate issued by the Sub Divisional Officer, Nashik is, therefore, without jurisdiction.

10) We have not been shown in any of these matters that the competence of the authority issuing caste certificate and issuance as such is matter within the control of a party like the petitioner. Eventually, it is the Sub Divisional Officer, Nashik, who is otherwise competent to issue the caste certificate, has issued it. At the stage of validation of the caste certificate issued by such Sub Divisional Officer, the committee expressed doubt about compliance with Rule 5(2)(a) and (b) of the Maharashtra Scheduled Tribes (Regulation of issuance and Verification of Certificate) Rules, 2003. That would not mean that in all cases and as a rule such caste certificate should be treated as invalid or ex-facie without jurisdiction. The term competent authority has

been defined in the statute. If the competent authority, in this case, has issued a certificate upon proof of the petitioner's family residence in Nashik District, then, we do not think that any larger controversy or issue needs to be decided.

11) Rule 5(2) (a) and (b) has been relied upon by the committee to hold that the competent authority has issued the caste certificate without considering the fact that the petitioner's family migrated from Dhule District. The committee has observed that from documentary evidence furnished by the petitioner it reveals that at the time of presidential order of 1950 the petitioner's family was resident of Dhule District, but while issuing the caste certificate, the Sub Divisional Officer, Nashik has mentioned that the petitioner and his family is ordinary resident of Nashik District.

12) We do not think that in the facts and circumstances of the present case, the committee could have invalidated the claim of the petitioner. The petitioner/applicant had not migrated from District Dhule to District Nashik. He was resident of Nashik and approached the competent authority, namely, the Sub Divisional Officer, Nashik. In the circumstances, we do not think that on such hyper technical ground the committee should have invalidated the claim of the petitioner. That being the sole ground

on which the committee has proceeded to invalidate the claim, we allow the writ petition. We quash and set aside the order passed by the committee.

13) We direct the committee to issue a caste validity certificate in favour of the petitioner within a period of two weeks from the date of receipt of a copy of this order.

14) This order is passed in the peculiar facts of this case and shall not be treated as precedent for future cases. Since the certificate is issued to the petitioner's father way back on 5th October, 1999, copy of which is at page 28 and its validity is not questioned nor it is set aside that we passed this order and direction. Any further scrutiny and verification by the committee will only result in prolonging the agony of the petitioner. His grandfather and father are held to be belonging to the Scheduled Tribe in question.

15) The committee to release the original caste certificate issued by the Sub Divisional Officer, Nashik, if it is in custody of the said committee to the petitioner on production of a copy of this order.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)