

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

WRIT PETITION NO.3271 OF 2015

(Harishchandra s/o Naryandasji Dangra and others vs. The State of Maharashtra and others)

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

Shri N.R. Saboo, Advocate and Shri B.N. Mohta,
Advocate for petitioners.

Ms. T. Khan, Assistant Government Pleader for
respondent nos.1 to 4.

Shri G.G. Mishra, Advocate and Shri R.J. Kankale, for
respondent nos. 6(a) to (f) and 7.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : SEPTEMBER 22, 2016

By this writ petition, the petitioners have challenged the validity certificate issued by the Scrutiny Committee in favour of the original respondent no.5 (since deceased), dated 7/9/2002.

According to the petitioners, they had purchased the lands, which initially belonged to the original respondent no.5 and the original respondent no.5 falsely claiming to be a tribal on the basis of his validity certificate that was illegally secured by him from the Scrutiny Committee on 7/9/2002, has initiated the proceedings against the petitioners under the provisions of Sections 3 and 4 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. It is stated that the Scrutiny Committee has not followed the mandatory

procedure of conducting vigilance enquiry while verifying the caste claim of the original respondent no.5.

Ms. Khan, the learned Assistant Government Pleader appearing for the respondent nos.1 to 4, fairly admits that the vigilance enquiry was not conducted in the matter of verification of the caste claim of the original respondent no.5. It is, however, stated that a validity certificate has been granted in favour of Baban Bhayyaji Khandate, real nephew of the original respondent no.5, after conducting the vigilance enquiry. It is stated that since a near blood relative of the original respondent no.5 is granted validity certificate and his claim of belonging to "Raj Gond" (Scheduled Tribe) is validated, the prayer of the petitioners is liable to be rejected.

On hearing the learned Counsel for the parties, we find that the prayer made by the petitioners for setting aside the validity certificate issued in favour of the original respondent no.5 needs to be granted. It is well settled that while verifying a tribe claim, it would be necessary for the Scrutiny Committee to conduct a vigilance enquiry so as to consider whether the claimant has any affinity towards the tribe to which he claims to belong. Also, the vigilance enquiry is necessary for considering whether the documents tendered by the claimant before the Scrutiny Committee are genuine documents. Since admittedly a vigilance enquiry was not conducted while granting the validity certificate in favour of the original respondent no.5, the validity certificate is liable to be set aside.

It would not be proper to consider the prayer for a declaration that the respondent nos.5 to 7 are not tribals and are not entitled to claim the benefits of the provisions of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 as the jurisdiction to decide the caste claims lies only with the Scrutiny Committee and it would be for the Scrutiny Committee to decide the caste claims of the respondent nos.6 and 7, if they apply. Since the original respondent no.5 has died and we are invalidating the caste certificate issued in his favour, the writ petition is liable to be disposed of.

We, therefore, partly allow the writ petition and quash and set aside the validity certificate granted in favour of the original respondent no.5, dated 7.9.2002. No order as to costs.

JUDGE

JUDGE

khj

CERTIFICATE

I certify that this order uploaded is a true
and correct copy of original signed order.

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Kamal H. Jeswani
Private Secretary

Uploaded on :

26/9/2016