

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2216/2016

(SHREYA SUDHAKAR GATHE **VERSUS** THE SCHEDULED TRIBES CASTE CERTIFICATE SCRUTINY
 COMMITTEE, AMRAVATI & OTHERS)

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

Court's or Judge's orders

 Shri R.S. Parsodkar, counsel for the petitioner.
 Mrs. K.R. Deshpande, A.G.P. for the respondent.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JUNE 16, 2016.

By this writ petition, the petitioner challenges the action of the respondent no.1-Scrutiny Committee in not accepting the caste claim of the petitioner for verification. The petitioner seeks a direction the respondent no.1-Scrutiny Committee to decide the caste claim of the petitioner within a time frame.

The petitioner claims to belongs to 'Thakur Scheduled Tribe' and since the petitioner was desirous of securing admission to an education institution on a seat reserved for the Scheduled Tribes, the petitioner secured the caste certificate from the competent authority-Sub Divisional Officer (Revenue), Jalgaon Jamod on 29.01.2016 in Form-C. The petitioner referred her caste claim to the respondent no.1-Scrutiny Committee for verification. The respondent-Scrutiny Committee, however, returned the caste claim to the petitioner on the ground that the caste certificate was not in accordance with Form-C, appended to the Maharashtra Scheduled Tribes Certificate Rules, 2003.

Shri Parsodkar, the learned counsel for the petitioner, submitted that the respondent no.1-Scrutiny Committee was not justified in returning the caste claim of the

petitioner. It is stated that after tendering the necessary documents before the competent authority including the caste certificate of the father and the caste validity certificate of the mother of the petitioner, the petitioner had secured the caste certificate in Form-C from the competent authority, i.e. Sub-Divisional Officer (Revenue), Jalgaon Jamod. It is stated that the petitioner is a student and it was, therefore, necessary for the respondent no.1-Scrutiny Committee to decide the caste claim of the petitioner within a time frame. It is stated that the caste claim of the petitioner is wrongly returned on the ground that the caste certificate is not in accordance with Form-C. It is stated that the certificate is issued in favour of the petitioner by the competent authority in Form-C only and merely because one of the clauses that is mentioned in Form-C, appended to the Maharashtra Scheduled Tribes Certificate Rules, 2003 is not included in the said certificate, the respondent no.1-Scrutiny Committee could not have refused to verify the caste claim of the petitioner by taking a hyper-technical approach.

Mrs. Deshpande, the learned Assistant Government Pleader appearing on behalf of the respondents, supported the action of the respondent no.1-Scrutiny Committee. It is stated that the respondent no.1-Scrutiny Committee was justified in returning the caste claim as the certificate issued to the petitioner in Form-C was not strictly in accordance with Form-C inasmuch as Clause-3 of Form-C which refers to the certificates and the documents on the basis of which the certificate is issued was not incorporated in the certificate issued in favour of the petitioner. It is stated that in March-2016, the respondent no.1-Scrutiny Committee has informed the competent authorities to issue the caste certificate in Form-C, strictly as per Form-C. It is stated that since this certificate was issued on 29.01.2016, i.e. before March-2016, it must not have been in the proper form.

On hearing the learned counsel for the parties, we find that the respondent no.1-Scrutiny Committee was not justified in taking a highly technical approach in the matter of verification of the caste claim of the petitioner. The petitioner had sought the caste certificate from the competent authority and the said certificate was granted to the petitioner in Form-C. A copy of the certificate is annexed by the petitioner at Annexure-I to the petition. It appears that the certificate is in Form-C and the seal and signature of the competent authority are endorsed on the same. We further find that the major part of the certificate is strictly in accordance with Form-C, as appended to the Maharashtra Scheduled Tribes Certificate Rules, 2003. It, however, appears that a reference is not made in the certificate to the documents on the basis of which the certificate was issued. The respondent no.1-Scrutiny Committee could not have refused to entertain the caste claim of the petitioner by taking a highly technical approach, specially when the petitioner is a student and was desirous of seeking admission to a professional course. Since the respondent no.1-Scrutiny Committee has informed the competent authorities to prepare the certificates strictly in accordance with Form-'C', appended to the Rules of 2003 and issue the certificate as per the said form, it is most likely that after the receipt of the said communication, the authorities would issue the certificate in a form that is identical to Form-C that is appended to the Rules of 2003. In the circumstances of the case, it would be necessary to direct the respondent no.1-Scrutiny Committee to decide the caste claim of the petitioner in accordance with law, more so, when the petitioner has annexed to the petition, the copies of the caste certificate issued in favour of the father of the petitioner and the caste validity certificate issued in favour of her mother.

Since the State Government is also joined as the respondent no.2, it would be necessary to direct the respondent no.2 to issue instructions to the competent authorities for issuance of online or regular caste certificates strictly in accordance with Form-C.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent no.1-Scrutiny Committee is directed to accept the caste claim of the petitioner and decide the same in accordance with law. The respondent no.2-State Government is directed to issue proper instructions to the competent authorities for issuance of online or regular caste certificates strictly in accordance with Form-C hereinafter, and report compliance to this Court on 14.07.2016.

Order accordingly. No costs.

Steno copy of the order is granted to the learned Assistant Government Pleader, on request.

JUDGE

JUDGE

APTE