

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3910 OF 2016

Laxmikant Nitaram Kumare

-vs-

Scheduled Tribe Certificate Scrutiny Committee, thr.its Member Secretary, Nagpur and another

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

Court's or Judge's Orders.

 Mr. R.R.Vyas, counsel for the petitioner.
 Mr. A.M.Balpande, AGP for the respondent No.1.
 Mr. S.P.Khare, counsel for the respondent No.2.

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

DATE : 08.12.2016.

By this writ petition, the petitioner challenges the caste validity certificate issued by the Scrutiny Committee in favour of the respondent No.2.

In pursuance of an advertisement issued by the Petroleum Corporation for allotment of LPG dealership, the petitioner as well as the respondent No.2 had applied. The dealership was earmarked for a candidate belonging to the scheduled tribes. Both the petitioner and the respondent No.2 claimed to belong to the scheduled tribes. The petitioner possesses the caste validity certificate and according to the petitioner, the Scrutiny Committee has granted a caste validity certificate in favour of the respondent No.2 on 23/09/2009 without conducting a vigilance enquiry and the affinity test to consider whether the respondent No.2 proves his affinity to Mana scheduled tribe.

Shri Balpande, the learned Assistant Government Pleader appearing for the respondent No.1, fairly states that since the Scrutiny Committee has not conducted the vigilance enquiry and has also not considered whether the respondent No.2 has affinity to Mana scheduled tribe to which he claims to belong, the matter could be remanded to the Scrutiny Committee for a fresh decision.

Shri Khare, the learned counsel for the respondent No.2, opposes the prayer made in the writ petition. It is stated that if the Scrutiny Committee is satisfied from the documents that a person

belongs to the scheduled tribes, a vigilance enquiry may not be conducted by the Scrutiny Committee. It is stated that the Hon'ble Supreme Court has held in the case of Anand v. Committee For Scrutiny And Verification of Tribe Claims, reported in 2011 (6) Mh.L.J. 919 that it would not be necessary to conduct a vigilance enquiry in every tribe claim.

Since admittedly, in the matter of the caste claim of the respondent No.2, the Scrutiny Committee has not conducted the vigilance enquiry and the affinity test, the impugned order is liable to be set aside and the matter needs to be remanded to the Scrutiny Committee for a fresh decision in the caste claim of the respondent No.2. It appears that in extreme haste the Scrutiny Committee has granted the caste validity certificate in favour of the respondent No.2. In view of the Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2003, it would be necessary for the Scrutiny Committee to conduct the vigilance enquiry and the affinity test in the matter of the caste claim of the respondent No.2. It cannot be gauged from the caste validity certificate that the Scrutiny Committee had applied its mind to the documents produced by the respondent No.2 and was satisfied that the respondent No.2 belongs to Mana scheduled tribe. As recorded herein above, it appears that the Scrutiny Committee has in great haste decided the caste claim of the respondent No.2, though several caste claims are pending before the Scrutiny Committee for years together. The judgment reported in 2011 (6) Mh.L.J. 919 and relied on by the learned counsel for the respondent No.2 would not be applicable to the facts of the case.

Hence, for the reasons aforesaid, the writ petition is allowed. The caste validity certificate, dated 23/09/2009 is hereby set aside. The Scrutiny Committee is directed to decide the caste claim of the respondent No.2, in accordance with law. Order accordingly. No costs.

JUDGE

JUDGE