

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH,

WRIT PETITION NO.4989/2016

(Yogita d/o Subhash Khartadkar vs. Scheduled Tribes Caste Certificates Scrutiny Committee
Amravati and another)

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

Court's or Judge's order

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Mr. A.J.Gilda, Advocate for the petitioner
Mr. A.A.Madiwale, Assistant Government Pleader for
Respondent nos. 1 & 2

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

DATED : 24th November, 2016.

Heard.

By this petition, the petitioner challenges the order of the Scrutiny Committee, dated 30th June 2016, as also the order of the Sub-Divisional Officer refusing to issue a caste certificate in favour of the petitioner.

It is stated on behalf of the petitioner that the Sub-Divisional Officer and the Scrutiny Committee were not justified in holding that the caste certificate could not have been issued in favour of the petitioner as the petitioner had failed to prove her affinity to 'Thakur' Scheduled Tribe, to which she claims to belong. It is stated that it would not be for the Competent Authority empowered to issue the certificate or the Scrutiny Committee to decide at the stage of issuance of caste certificate, under the provisions of the Act and the Rules, to

consider whether the applicant seeking the issuance of caste certificate proves his/her affinity to the caste or tribe, to which he/she claims to belong. It is stated that this issue stands answered in favour of the petitioner by the judgment reported in 2015 (2) Mh.L.J. 707. It is stated that in the said judgment, it is held by this Court that the Competent Authority would not be empowered to verify the claim for issuance of the caste certificate and it would be necessary for the Competent Authority to only find out whether minimum requirement is made out by the applicant for issuance of the caste certificate.

Shri Madiwale, the learned Assistant Government Pleader appearing for the respondent nos.1 and 2 does not dispute the position of law, as laid down, in the judgment reported in 2015 (2) Mh.L.J. 707. It is stated an appropriate order may be passed in the circumstances of the case.

Since the Competent Authority-Sub-Divisional Officer was not empowered to consider whether the petitioner proves his affinity towards 'Takhur' Scheduled Tribe or not before issuance of a caste certificate to the petitioner, it would be necessary to quash and set aside the orders of the Sub-Divisional Officer and the Scrutiny Committee.

Hence, for the reasons aforesaid and for the reasons recorded in the judgment reported in 2015(2) Mh.L.J. 707, we allow the Writ Petition. The impugned orders are quashed and set aside. The Sub-Divisional Officer is directed to decide the application of the petitioner for issuance of caste certificate as early as possible and positively within one month and consider

issuing the caste certificate in favour of the petitioner.

Order accordingly. No costs.

JUDGE

JUDGE

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