

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH,

WRIT PETITION NO.5289/2016

(Ku.Madhuri D/o Vitthalrao Pakhale (Sau. Ragini w/o Vikas Nandurkar) vs. Joint Commissioner & vice Chairman, Scheduled Tribes Caste Certificate Scrutiny Committee, Amravati)

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

Court's or Judge's order

Mr. S.R. Narnaware, Advocate for the petitioner
Mr. Tajwar Khan, Assistant Government Pleader for
Respondent

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

DATED : 24th November, 2016.

Heard.

By this Writ Petition, the petitioner seeks a direction against the respondent-Scrutiny Committee, to decide the caste claim of the petitioner within a time-frame.

It is the case of the petitioner that though the petitioner has submitted her caste claim to the Scrutiny Committee for verification on 9.3.2015, the Scrutiny Committee has not decided the same.

We find, on a reading of the affidavit-in-reply filed on behalf of the respondent-Scrutiny Committee, that the Scrutiny Committee has rejected the caste certificate of the petitioner just a couple of days before the petition was filed, on the ground that the same was not submitted in a proper format and according to the norms and rules. It is further stated in the affidavit-in-reply that the petitioner is free to approach the Committee with a fresh proposal for deciding the caste

claim of the petitioner. To the affidavit-in-reply filed by the respondent, the order dated 29.8.2016 is annexed.

On a reading of the order dated 29.8.2016, it appears that the Scrutiny Committee has refused to verify the caste claim of the petitioner on the ground that the caste certificate issued to the petitioner was not in form 'C'. It is observed in the order of the Scrutiny Committee that below the signature of the Competent Officer signing the caste certificate, his name and designation is not mentioned. It is further mentioned that the petitioner has not submitted the affidavit in Form 'F'.

On a perusal of the order of the Committee dated 29.8.2016, we find that the Committee was not justified in refusing to verify the caste claim of the petitioner. As per Rule 4 (6) of the Maharashtra Scheduled Tribes (Regulation of Issuance & Verification of) Certificate Rules, 2003, the Competent Authority is obliged to verify the documents with the original documents and, if satisfied, would be required to issue the Scheduled Tribe Certificate in Form 'C'. It appears from the caste certificate that is annexed to the Writ Petition that the certificate is issued to the petitioner by the Competent Authority in Form 'C'. At least, the certificate mentions so. Also, we find that the Sub-Divisional Officer has signed the certificate in Form 'C' and the name and designation of the Sub-Divisional Officer is mentioned as Sub-Divisional Officer (Revenue), Achalpur. The seal of the Sub-Divisional Officer, Achalpur is also affixed on Form 'C'. If a certificate is issued in favour of an applicant by the Competent Authority under Rule 4(6), the Scrutiny Committee would be entitled under the provisions of Rule 12 of the Rules to scrutinize the application, verify the information and documents furnished by the applicant and shall acknowledge the receipt of the application. If the Scrutiny Committee is not satisfied with the documentary evidence produced by

the applicant, the Scrutiny Committee is required to forward the application to the Vigilance Cell for conducting the school, home and other enquiry.

It is a normal feature that the Scrutiny Committee is in the recent past, refusing to verify the caste claim of several applicants solely on the ground that the caste certificate issued to the applicants is not in Form 'C' though the certificate issued in favour of the applicants shows that it is in Form 'C'. If the Competent Authority issues the caste certificates in the form that is printed and maintained by the Government for issuance of the caste certificates, the applicants cannot be blamed if there are some minor flaws in the same. We have held, time and again, that it would not be for the Scrutiny Committee to refuse to verify the caste claim of the applicants solely on the ground that there are minor flaws in the certificates issued in favour of the applicants as the flaws are not attributable to the applicants but are attributable to the State Government or the Officers issuing the certificates. Despite our observations in several matters that the Scrutiny Committee should not refuse to verify the caste claim solely on the ground of some minor flaws in the application, we find that the Scrutiny Committees are routinely refusing to verify the applications made by the claimants by minutely examining the caste certificates that are issued in favour of the claimants. We do not appreciate the conduct on the part of the Scrutiny Committees in doing so. If according to the Committee, the caste certificate is not issued by the concerned Competent Authority, it would be for the Scrutiny Committee to refer the caste certificate along with the other documents to the Vigilance Cell so that the Vigilance Cell would make an appropriate enquiry and find out whether the caste certificate tendered by the applicants/claimants for scrutiny is really issued by the Competent Authority or not. We do not find anything in Rule 12 that permits the Scrutiny Committee to

refuse to verify the caste claim solely by referring to some minor mistakes or flaws in the caste certificates that are issued in favour of the claimants, that are taking education and/or are in service and are greatly prejudiced because of the refusal on the part of the Scrutiny Committee to verify the caste claim.

In the instant case, we find that the Scrutiny Committee has illegally refused to verify the caste claim of the petitioner by passing the order dated 29.8.2016. The certificate appears to have been issued in form 'C', the Sub-Divisional Officer seems to have signed the certificate. Below the signature of the person issuing the certificate, it is clearly mentioned that the signature is of the Sub-Divisional officer (Revenue), Achalpur and the seal of the Sub-Divisional officer, (Revenue), Achalpur also finds place in the certificate. In the circumstances of the case, it would be necessary to direct the Scrutiny Committee to verify the caste claim of the petitioner after permitting the petitioner to remove the deficiencies in the application, if any, pertaining to the submission of the affidavit in form 'F'. Though the learned counsel for the petitioner states that the affidavit in form 'F' was submitted, if it is not submitted, we permit the petitioner to submit the same before the Scrutiny Committee within four weeks.

Hence, for the reasons aforesaid, the prayer made in the Writ Petition is granted. The Scrutiny Committee is directed to verify the caste claim of the petitioner within one year from the date of appearance of the petitioner before the Scrutiny Committee. The petitioner undertakes to appear before the Scrutiny Committee on 19.12.2016.

Order accordingly. No costs.

JUDGE

JUDGE