

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 250 OF 2016

VIDHYA SHIVAJI TORADMOL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Shri Jadhavar Pratap V.
AGP for Respondents/ State : Mrs.A.V.Gondhalekar.
...

**CORAM: S.C. DHARMADHIKARI
AND
MANGESH S. PATIL, JJ.**

DATE :- 06th June, 2017

PC.:

1 The claim of the Petitioner as belonging to “Koli Mahadev” Scheduled Tribe has been rejected by the Scrutiny Committee functional at Nashik.

2 Very few facts are necessary to be recorded so as to appreciate the contentions of the Petitioner. On the strength of the caste/tribe certificate issued to the Petitioner by the Sub Divisional Officer, Nagar, District Ahmednagar, the Petitioner sought employment with none other than the State. He was appointed as Assistant Civil Engineer in the month of July, 2015 in the office of the Second Respondent. As is required by law and particularly by the Maharashtra Scheduled Castes, Scheduled Tribes,

Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Act No.23 of 2001), the Scheduled Tribe certificate was forwarded for scrutiny and verification by the competent Scrutiny Committee in this case functional at Nashik.

3 The Petitioner has specifically stated in the petition and with reference to the application, which has been made to the Scrutiny Committee seeking caste/ tribe validity certificate for enquiry into his claim, that the Petitioner is resident of Tagad Vasti, Pipeline Road, Shivaji Nagar, Savedi, Ahmednagar. The Petitioner had, therefore, stated that his original place of residence is this address referred above.

4 The Scrutiny Committee instead of scrutinizing and verifying the claim of the Petitioner as belonging to "Koli Mahadev" Scheduled Tribe and issuing or refusing the certificate of validity, went on questioning the competence of the Authority issuing the Caste/ Tribe Certificate. In the ultimate analysis, it has held that it was not the Sub Divisional Officer, Nagar Division, who could have issued the caste certificate. It proceeded to cancel the Caste Certificate regarding which it was directed to hold an inquiry, scrutiny and verification.

5 The only contention raised before us is that this is done without any notice to the Petitioner and unmindful of the contents of the application which was made to the Scrutiny Committee. The argument is

that the Scrutiny Committee has not expressed any opinion on the merits of this application and particularly the details provided by the Petitioner regarding his residential address. If there was no scrutiny with regard to this residential address and whether, the Petitioner was residing at the said address, then, such conclusion as is reached and challenged before us, cannot be reached, is the complaint. The argument is that had the Petitioner been given a reasonable opportunity of appearing and being heard, he would have satisfied the Scrutiny Committee that he indeed is residing or had resided at the relevant time at the above mentioned address and therefore, the Sub Divisional Officer, Nagar Division was competent to issue the Caste Certificate.

6 Upon reading the impugned order, we do not find any reference to facts or to any notice being issued to the Petitioner to appear or the Petitioner failing to appear despite receipt of such notice. In any event, there is patent non application of mind and the impugned order deserves to be quashed and set aside. It is, accordingly, quashed and set aside. The petition succeeds.

7 Though we are satisfied that this Scrutiny Committee instead of performing it's job as per the Act No.23 of 2001 has resorted to shortcuts, however, it is only because of persuasion of the learned AGP that we do not impose costs.

8 Needless to clarify that the competent Scrutiny Committee

shall now verify and scrutinize the claim afresh on it's own merits and in accordance with law by strictly following the mandate of Act No.23 of 2001 and such scrutiny and verification shall be completed within SIX MONTHS from the date of receipt of the copy of this order and without being influenced by the earlier order.

9 Needless to further clarify that unless such scrutiny and verification is completed, there is no question of the Petitioner's services being terminated.

10 The Writ Petition is, accordingly, allowed.

(MANGESH S. PATIL, J.)

(S.C. DHARMADHIKARI, J.)