

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

914 WRIT PETITION NO. 8806 OF 2017

**KANISHK SHRINIVAS CHITTIWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Vibhute Sunil M.
AGP for Respondents: Mr. A.R. Kale

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

DATE : 12.07.2017.

ORAL ORDER :-

1. After hearing both sides, we are of the view that the Scrutiny Committee and the Competent Authorities set up under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short the "Maharashtra Act No. 23 of 2001") have no business to raise hyper technical issues and to deny the legitimate and just claim. In the present case, the petitioners have clarified that they have been residing within Nanded District and particularly at village Palaj, Taluka

Bhokar, District Nanded. The petitioners' father, however, has settled at Nashik and has set up his medical practice there. At the same time the third respondent has issued Caste Certificate to the father on 20 February, 2015 (See Page 14).

2. With all these, the two sons have been denied the Caste Certificate on the ground that the petitioners are not permanently residing in Nanded District, particularly in Bhokar Taluka. Even the Scrutiny Committee had accepted this finding of the Competent Authority. The Committee says that it has perused the records. We do not know what records the Committee has perused for the simple reason that the representatives and particularly of one Silver Oak School, Gangapur-Dugaon Road, Dugaon Phata, District Nashik were stated to be present before the Committee. They stated that the Leaving Certificate, page 15, will demonstrate as to how the children and one of them was taking education in that School at Nashik. If indeed they are residents and permanently of Bhokar, District Nanded, then, such School Leaving Certificate would not have been on record.

3. We do not think that merely because there is this School Leaving Certificate, that the Caste Certificate should be denied to the children. More so, because prior to the School Leaving Certificate, on 20.02.2015 the Sub-Divisional Officer/Sub-Divisional Magistrate, Bhokar, District Nanded issued Caste Certificate to certify that the petitioners' father belongs to Scheduled Tribe mentioned therein.

4. The Scrutiny Committee rejected this version of the petitioners' father. It unnecessarily recorded findings and detailed one as to how the claim cannot be said to be genuine. The Committee lost sight of the fact that it was not verifying the claim of the petitioners as belonging to Mannervarlu Scheduled Tribe. It was merely considering an appeal against the order of the Competent Authority who refused the Tribe Certificate. The certificate of validity and Tribe/Caste Certificate are two distinct documents and having different legal consequences. A Tribe Certificate being issued does not mean that the claim is necessarily held to be valid. That can always be verified by the Scrutiny Committee if the same is referred to it. On the strength of this Caste/Tribe

Certificate if educational avenues, job opportunities or election prospects are availed of by relying upon the Tribe which is declared as Scheduled Tribe and against reserved seats, then, of course the underlying claim will have to be verified. Today, petitioner no. 1 has appeared for the National Eligibility and Entrance Test (NEET) from Scheduled Tribe category and seeks admission to medical course, whereas, petitioner No. 2 is studying in Chemical Engineering Faculty by obtaining admission against a reserved seat at M.I.T. Engineering College, Pune. We see no reason in their opportunities being snatched/taken away by such a hyper technical approach. The second respondent Committee failed to apply its mind to the basic and fundamental issue and was carried away by the claim placed before it.

5. In the circumstances, both orders are quashed and set aside. Sub-Divisional Officer, Bhokar, District Nanded shall issue a Caste/Tribe Certificate to both the petitioners by tomorrow i.e. 13.07.2017. However, we clarify that our directions shall not be construed as upholding the claim of the petitioners as belonging to Mannervarlu,

Scheduled Tribe. The claim must be verified independently uninfluenced by our finding and limited conclusion. All contentions and on merits of that claim are kept open.

6. Writ petition is disposed of with the above directions.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]