

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9795 OF 2017

Ganesh s/o Nandkishor Antarap
age 24 years, occ. student
r/o Jawaharbag, Jalna
Tq. & Dist. Jalna

Petitioner

Versus

1. The State of Maharashtra
Department of Tribal Development
Mantralaya, Mumbai 32
Through its Secretary
2. The Scheduled Caste Certificate
Scrutiny Committee
Aurangabad Division, Aurangabad
Through its Member Secretary
3. The Sub Divisional Officer
Jalna
4. The Sub Divisional Officer,
Parbhani

Respondents

Mr. A.S. Golegaonkar, advocate for petitioner.
Ms. S.S. Raut, A.G.P. for respondents.

**CORAM : R.M.BORDE &
S.M. GAVHANE, JJ.**
DATE : 8th AUGUST, 2017

JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.

3. Petitioner claims to be belonging to Mannerwarlu Scheduled Tribe and is in receipt of certificate issued by the Sub-Divisional Officer, Jalna, certifying accordingly. The caste certificate issued in favour of petitioner was referred for verification to respondent no. 2 – scrutiny committee however, the committee has refused to verify the same on the ground that the certificate has been issued by the authority not authorised to issue the same. It is recorded that the permanent place of residence of the family of petitioner is Khupsa, Dist. Parbhani whereas the caste certificate has been issued by the Sub-Divisional Officer, Jalna. According to the committee, the petitioner needs to secure the certificate from Sub-Divisional Officer, Parbhani, and shall produce the same for verification to the committee.

4. The view adopted by the scrutiny committee is hyper technical and does not stand to the scrutiny for various reasons. It is not a matter of dispute that initially the Sub-Divisional Officer, Jalna refused to issue caste certificate in favour of petitioner and turned down his request. As such, petitioner was compelled to approach the scrutiny committee with a request to issue directions to the Sub-Divisional Officer, Jalna to issue caste certificate. The appeal tendered by petitioner to the committee came to be allowed in view of judgment and order dated 04.07.2011 and, the committee directed the Sub-Divisional Officer, Jalna, to issue caste certificate in prescribed proforma certifying that petitioner belongs to Mannerwarlu Scheduled Tribe. In pursuance of the directions issued by the scrutiny committee, the Sub-Divisional Officer, Jalna has issued the caste certificate. It is also worthy to note that

father of the petitioner is holder of validity certificate which has been issued by the scrutiny committee on 29.06.2011. The caste certificate issued in favour of father of petitioner was issued at the relevant time by Tahsildar and Executive Magistrate, Jalna. It must therefore be noticed that the caste certificate issued in favour of father of petitioner by the Executive Magistrate, Jalna, since is held to be valid, it shall be deemed that family of petitioner is resident of the place with the jurisdiction of Jalna Dist. and that, the certificate that was issued in favour of petitioner by the Sub-Divisional Officer, Jalna, in pursuance of the directions issued by the scrutiny committee, has been validly issued. The scrutiny committee ought not to have refused to verify the validation claim of petitioner on technical ground and ought to have taken decision on merit.

5. In the facts and circumstances of the case, we direct quashment of the order passed by the scrutiny committee. The scrutiny committee, shall, in observance of the procedure prescribed in law, decide the validation claim of petitioner on its own merit and in accordance with law and shall not reject the same on any technical ground. The scrutiny committee shall decide the validation claim within a period of six months. Rule accordingly made absolute. No costs.

(S.M. GAVHANE)
JUDGE

(R.M.BORDE)
JUDGE