

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 360 OF 2017

Yogesh U. Pakhale ... Petitioner
Vs
1. State of Maharashtra & Ors. ... Respondents

Mr. R.K. Mendadkar for the Petitioner.

Mrs. Neha Bhide, 'B' Panel Counsel for the Respondent No.1.

Mr. G.S. Hegde for the Respondent No.2.

***CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.***

THURSDAY, 02ND MARCH, 2017

P.C. :

1 The petitioner claims to have been issued a certificate styled as a Tribe Certificate by a competent authority, but in the State of Madhya Pradesh.

2 The petitioner claims that he and his family are ordinarily residing in Bhopal City which is the capital of the State of Madhya Pradesh. The Tahsildar, Hujur, District Bhopal in that State issued this certificate on the strength of which the petitioner, though fully qualified and possessing degree, namely,

Bachelor of Engineering (Electrical) applied for a job with the respondent No.2-Corporation. The respondent No.2-Corporation invited applications for various posts, including the post of Assistant Engineer (Electrical). The post reserved for the Scheduled Tribe was a post available and that benefit was availed of by the petitioner by making an application on the strength of this Tribe Certificate. Pursuant to that advertisement of 27th May, 1996, the petitioner applied, was invited for interview and duly selected. He was appointed by an appointment order dated 21st February, 1997.

3 After enactment of the The 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, the employer was of the opinion that the law obliges him to forward this Tribe Certificate for scrutiny and verification of a competent Scrutiny Committee so that the petitioner has an opportunity to appear before it and establish and prove his claim as Halba Scheduled Tribe. Accordingly, though the petitioner was duly appointed, confirmed in service, the petitioner was served

with a letter requesting him to forward and furnish what is styled as a Tribe Verification Certificate issued by a competent Scrutiny Committee in terms of the said Act No.23 of 2001. It is that Committee which can verify and scrutinize the claim of the certificate holder as belonging to the Tribe and mere issuance of the certificate in the scheme of the law is not conclusive and decisive. It is such a scrutiny and verification which is resisted in this writ petition on several grounds, including that the Scrutiny Committee in the State of Maharashtra would have no competence or jurisdiction to verify the claim of the Tribe Certificate holder, if the certificate is issued by an authority competent to do so, but in the State of Madhya Pradesh.

4 On the last occasion, after the writ petition was argued for some time and since the show cause notice of the second respondent threatens, according to the petitioner, to put an end to his service, we had protected the same by an ad-interim order.

5 Today, after the petition was argued for some time and we noted one of the primary contentions on the jurisdiction

and competence of the Committee, we called upon Mr. Mendadkar to state as to why the petitioner cannot, subject to such plea of jurisdiction or want of competence, appear before the Scrutiny Committee and establish and prove his claim.

6 After due instructions, Mr. Mendadkar states that subject to all contentions, including the point of jurisdiction being kept open, the petitioner has no objection to appear before the Committee. Accordingly, the petitioner shall appear before the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane, on 22nd March, 2017, at 11:00 a.m. The Scrutiny Committee shall verify and scrutinize the claim as expeditiously as possible and render its decision on or before 31st July, 2017. All contentions of all sides are kept open. The ad-interim order to continue till the Scrutiny Committee decides the matter and delivers its order and for a period of three weeks after the said order is communicated to the petitioner and in the event it is adverse to him.

6 The writ petition is disposed of in the above terms.

B.P. COLABAWALLA, J. ***S.C. DHARMADHIKARI, J.***