

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3105 OF 2015

Ajay Dashrath Gangawane	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. R. K. Mendadkar for the petitioner.

Ms. Neha Bhide 'B' Panel Counsel for the respondents.

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

DATED :- MARCH 3, 2017

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the petitioner prays for quashing and setting aside an order dated 4th March, 2015 passed by respondent no. 2 committee. A further direction in the form of a writ of mandamus or any other writ, order or direction is sought so as to direct the concerned scrutiny committee to issue a caste validity certificate in favour of the petitioner.

2. The petitioner was seeking an appointment in the office of the Directorate General of Police, Maharashtra State. Respondent nos. 3 and 4 are the authorities, who would be

empowered to issue the appointment order. However, as the appointment was sought to a post reserved for Scheduled Tribe, the petitioner, after obtaining the caste certificate, forwarded it to the competent scrutiny committee for verification and scrutiny of his claim. The petitioner claims to be a Scheduled Tribe and belonging to Hindu Thakar Scheduled Tribe. That was notified as a Scheduled Tribe by a presidential notification and as applicable to the State of Maharashtra. By virtue of the Act 23 of 2001, the scrutiny committee was empowered to verify and scrutinise the claim.

3. By the impugned order, the scrutiny committee has invalidated the claim and therefore, the caste certificate issued in favour of the petitioner on 31st May, 2001 has no legal effect.

4. It is on the above premise that the writ petition has been filed. The petitioner's counsel has placed reliance, *inter alia*, on a Division Bench judgment of this court and which, according to him, stands affirmed after the dismissal of the Special Leave Petition by the Hon'ble Supreme Court of India. The Division Bench judgment, fairly detailed one and copy of which is annexed, has been delivered in a batch of petitions. The copy of that Division Bench judgment is to be found in the record at page 163 of the paper book. The Division Bench of this court held that

there is no justification to pick and choose one area and term that there is no Scheduled Tribe population and particularly Thakar Scheduled Tribe found in this district of the State of Maharashtra. The Thakars are predominantly found in some other districts and noted in the committee's order. In Writ Petition No. 6048 of 2004 and companion matters, the Division Bench, in the detailed judgment, delivered on 14th September, 2004, criticised this approach of the scrutiny committee. If all the applicants belong to Thakar Scheduled Tribe and they have produced overwhelming evidence to this effect, then, there was no reason to discard it on the ground that in Sindhudurg District (erstwhile Ratnagiri District) this tribal population was not residing or inhabited.

5. Equally, it is conceded by the respondents that not only this Division Bench, but in an another order recently delivered by this court in Civil Writ Petition No. 1553 of 2017 in the case of *Jayram Vishram Gangawane vs. State of Maharashtra and Ors.* on 10th February, 2017, the court held that there is no reason to make an artificial distinction between the members of the Scheduled Tribe found elsewhere in the State of Maharashtra and this district. Further, once the petitioner has placed on record certificates of validity granted by the second respondent committee to the other relatives from the paternal side, then, it is

futile to hold this inquiry and particularly relating to the cultural affinity. That is the precise reason assigned in *Jayram Gangawane vs. State of Maharashtra and Ors.* (supra) (the recent order of this Division Bench).

6. Once it is the conceded position that the controversy is covered by the two Division Bench orders of this court, then, the order of the Scheduled Tribe Scrutiny Committee, which is contrary to the principles laid down therein, cannot be sustained. It is accordingly quashed and set aside. Rule is made absolute in terms of prayer clause (a). There would be no order as to costs.

7. The committee shall issue the certificate of validity within a period of four weeks from the date of receipt of a copy of this order.

8. Needless to clarify that respondent nos. 3 and 4 will now proceed on the footing that the petitioner's tribe certificate is valid. They shall not take any punitive action on the basis of the scrutiny committee's order, which we have quashed and set aside.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)