

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3190 OF 2010

Mohit s/o. Suresh Deore

.... Petitioner

vs

1 The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

2 The Committee for Scrutiny and
Verification of Tribe Claims, Nasik
Division, Nasik

3 Maharashtra State Electricity Co Ltd.,
through its Chief General Manager, (T/E),
G-9, Prakashgad, 4th floor, Station Road,
Bandra (E), Mumbai 400051

.... Respondents

Mr. R.K. Mendadkar with Mr. C.K. Bhangoji for the petitioner.
Ms. Nisha Mehra, AGP for respondents 1 and 2.
Mr. Avinash A. Chavan, Senior Research Officer, Nasik present.

**CORAM: ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : April 11, 2017

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

1 Rule, returnable forthwith. Heard finally by consent of the
parties.

2 The Petitioner, being aggrieved by the order passed by the

Scheduled Tribe Certificate Scrutiny Committee, Nasik Division, Nashik – Respondent No.2, (The Committee) dated 2nd January 2009 as his caste claim belonging to Thakur (Scheduled Tribe) has been rejected.

3 This is one of those cases where, though the Petitioner's father, brother, two sisters and uncle already possess the validity certificate of the caste in question i.e. Thakur (Scheduled Tribe), yet the Committee, by overlooking those documents and supporting materials placed on record, has rejected the claim. The reasons and findings so arrived at by the Committee, on various aspects, as are contrary to the settled position of law and the record. The doubts and/or rejection on the foundation of improper affinity test and other material, in no way, sufficient to prevail over the paternal relative's validity certificates and supporting material on record. The findings, therefore, so arrived at, in our view, is unsustainable. We are inclined to conclude this order, as the law in this regard is settled by the Supreme Court as well as by this Court in the various judgments.

4 In view of judgment dated 10.04.2017 in Writ Petition No.

28/2016-Kum. *Ashwini Vilas Chavan v. State of Maharashtra & ors.* (Anoop V. Mohta & Ravindra V. Ghuge, JJ.), after referring to various Supreme Court and High Court judgments by giving importance to the paternal side caste certificates, we have ordered to grant the caste certificate of validity accordingly on the foundation of facts and the law, but on same line, hence order accordingly.

5 Strikingly, the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules 2003 (The Rules) provide the definition of “*relative*” [2 (1) (f)] means a blood relative from paternal side of the applicant. The Applicant is one, who apply for such Validity Certificate.

6 The Rules prescribed the procedure for obtaining the verification of certificate by the Scrutiny Committee. As per which, Rule 11(2)(d) provides that apart from the documents so prescribed, other documents include [(d)(iii)] affidavits of the near relatives whose Validity Certificates are submitted in support of the Scheduled Tribe claim of the Applicant. The Scrutiny Committee, thereafter, as per Rule 12, scrutinizes and verify the information and documents

furnished by such Applicant. It is only in case, where the Committee is not satisfied, such application required to be sent to the Vigilance Cell for inquiry procedure is also contemplated. The requirement of opportunity is also provided in case of further doubts and/or issues. The aspect, therefore, which is important for the purpose of taking decision in the present matter, where the paternal side relatives' caste certificates are on record and in view of the judgment so referred above, the Scrutiny Committee, in our view, required to follow the same and pass order accordingly. The persistent Judgments/Orders by overlooking the orders, as well as, the rules so prescribed, definitely irks the judicial mind and that resulted into even making the adverse observations by the Courts against the Committee, as already recorded in many cases. This needs to be avoided by the Committee as the mandate of the prescribed procedure itself sufficient to pass the order in favour of the Applicant, unless the case of fraud and/or misrepresentation is made out. This Court in *Pramodkumar Narendrakumar Wagh Vs. State of Maharashtra*¹ has recorded as under:-

“8 Therefore, we are inclined to observe that the Scrutiny Committee by passing such orders by

1 2015 (4) Mh. L. J. 949

overlooking the orders passed by this Court as well as Supreme Court, definitely disrespecting the conclusions so drawn by the court. Such attitude, in our view, is deprecated. This is not the case where even the relations are in dispute. The State Government, in our view, required to take steps against such Scrutiny Committee and/or officers who are passing such orders by overlooking the judgments passed by the Supreme Court and this courts directly on the issues after taking into consideration the relatives' caste validity certificates. Appropriate circular and/or direction is required to be issued in this regard so that it will save time and energy of every one including of Courts.”

This Judgment has attained finality, as the SLP against it is also dismissed on 21-09-2015.

7 Therefore, the following order :

ORDER

(a) Impugned judgment and order dated 2/1/2009 passed by respondent No.2 committee annexed at Exhibit C is quashed and set aside.

(b) Respondent No.2 is directed to issue a validity certificate in favour of the petitioner, preferably within eight weeks.

(c) There shall be no order as to costs.

(d) Rule made absolute accordingly.

(RAVINDRA V. GHUGE J.)

(ANOOP V. MOHTA, J.)