

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3025 OF 2017
ALONG WITH
WRIT PETITION NO.3172 OF 2017

WP NO.3025 OF 2017

Shri Devraj Chanabsappa Jambenal. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
—

WP NO.3172 OF 2017

Vandana Shravankumar Hainalkar. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri Karan Shankar Thorat for the Petitioner in both the Petitions.
Ms.N.M.Mehra, AGP for the Respondents/State in both the Petitions.
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CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ

DATED : 23RD JUNE 2017

P.C.

1. Rule in both the Petitions. The learned AGP waives service for the Respondents in both the Petitions.

2. In Writ Petition No.3025 of 2017, the Petitioner was granted a caste certificate in accordance with Section 4 of the the Maharashtra Scheduled Caste, 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 said Act”). The Caste Scrutiny Committee by an order dated 31st December 2014 held that the caste certificate deserves to be cancelled as the same was not properly issued. However, a liberty was granted to the Petitioner to apply for caste certificate by making an Application before the Competent Authority. Accordingly, the Petitioner made an Application to the Competent Authority under Sub-section (1) of Section 4 of the said Act. By an order dated 30th June 2015, the Competent Authority rejected the Application of the Petitioner for grant of caste certificate. Being aggrieved by the said order, the Petitioner in the said Writ Petition preferred an Appeal under Sub-section (1) of Section 5 of the said Act. The Appeal was allowed by the Appellate Authority by an order dated 15th February 2016. The Appellate Authority directed that the caste certificate issued in terms of the order of the Appellate Authority will be subject to scrutiny by the Caste Scrutiny Committee. It appears that on the basis of the said order, the Competent Authority (Sub-Divisional Officer, Solapur No.1, Solapur) made adjudication. By an order dated

4th July 2016, he held that clause 5 of the order of the Appellate Authority was not clear. He rejected the application for grant of caste certificate. Being aggrieved by the said order, the Petitioner again preferred an Appeal under Sub-section (1) of Section 5 of the said Act. By an order dated 16th September 2016, the said Appeal has been dismissed on the ground that it is barred by law of limitation.

3. We have perused all the relevant orders annexed to the Writ Petition No.3025 of 2016. Against the order dated 30th June 2015 passed by the Sub-Divisional Officer, Solapur No.1, Solapur, rejecting the prayer for grant of caste certificate, the Petitioner preferred an Appeal under Sub-section (1) of Section 5 of the said Act. Under Sub-section (2) of Section 5 of the said Act, the Appellate Authority has power to set aside the order of the Competent Authority and to direct the Competent Authority to issue a caste certificate. Perusal of the Memorandum of Appeal preferred by the Petitioner shows that a prayer was made for allowing Appeal and for directing that the caste certificate be issued to the Petitioner. Perusal of the operative part of the order dated 15th February 2016 passed by the Appellate Authority shows that the Appellate Authority allowed the Appeal in its entirety. There is a further direction issued that the caste certificate issued in terms of the order of the Appellate Authority will be subject to scrutiny by the Caste Scrutiny Committee. As far as the caste certificate issued under Section

4 of the said Act is concerned, the legal position is very clear. Sub-section (2) of Section 4 of the said Act lays down that the caste certificate issued by the Competent Authority shall be valid only subject to verification and grant of validity certificate by the Caste Scrutiny Committee. At highest, a caste certificate issued under Section 4 of the said Act is a prima facie evidence of the caste status.

4. According to us, in the light of the very specific order passed by the Appellate Authority on 15th February 2016, the Competent Authority (Sub-Divisional Officer, Solapur No.1, Solapur) was required to do only ministerial act of issuing a caste certificate to the Petitioner as prayed for. Therefore, the order passed by the Competent Authority on 4th July 2016 is completely erroneous. Even the Appellate Authority has committed an error by dismissing the Appeal on the ground of bar of limitation without giving an opportunity of being heard to the Petitioner on the Application for condonation of delay.

5. As far as Writ Petition No.3172 of 2017 is concerned, the facts are identical. Even in this case, the Petitioner preferred an Appeal under Sub-section (1) of Section 5 of the said Act against an order of the Competent Authority refusing to grant caste certificate. The Appellate Authority by judgment and order dated 22nd February 2016

allowed the Appeal and directed that the caste certificate issued in terms of the said order will be subject to verification by the Caste Scrutiny Committee. Even in this case, by the judgment and order dated 21st June 2016, the Competent Authority rejected the Application made by the Petitioner.

6. Hence, we pass the following order:

O R D E R :

- (a) Rule issued in Writ Petition No.3025 of 2017 is made absolute by setting aside the order dated 4th July 2016 passed by the Competent Authority and the order dated 16th September 2016 passed by the Appellate Authority;
- (b) We direct the Competent Authority (third Respondent) to issue caste certificate to the Petitioner in the said Writ Petition as per the directions of the Appellate Authority within a period of one week from the date on which an authenticated copy of this order is produced by the Petitioner in the office of the Competent Authority;

- (c) Rule issued in Writ Petition No.3172 of 2017 is made partly absolute by setting aside the order dated 21st June 2016 passed by the Competent Authority ;
- (d) We direct the Competent Authority (third Respondent) to issue caste certificate to the Petitioner in the aforesaid Writ Petition in terms of the order of the Appellate Authority dated 22nd February 2016 within a period of one week from the date on which an authenticated copy of this order is produced by the Petitioner in the office of the Competent Authority;
- (e) We make it clear that a caste certificates which may be issued to the Petitioner in these two Petitions shall be valid only subject to verification and grant of validity certificate by the Caste Scrutiny Committee;
- (f) The third Respondent to act upon an authenticated copy of this order.