

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13609 OF 2016

Smt.Laxmi Ravindra Tathe

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.Sachin Gite for Petitioner.

Ms.Nisha Mehra, AGP, for State.

CORAM : SHANTANU S. KEMKAR AND
PRAKASH D. NAIK, JJ.

DATE : 16th January 2017

PC :

1. Heard. The grievance of the Petitioner is that though the Sub Divisional Officer, Nashik ('SDO Nashik') by order dated 21st January 2015 (Exhibit-E) had observed that he has no jurisdiction to decide the Petitioner's claim for grant of caste certificate, still he made observations to the merits of the matter and had observed that the Petitioner is not entitled for grant of caste certificate. The said order when challenged before the appellate authority being Divisional Caste Scrutiny Committee no.1, Nashik Division, the appellate authority vide order dated 30th September 2016 (Exhibit-G) confirmed the order passed by SDO, Nashik dated 21st January 2015. Feeling aggrieved by both the above orders passed by SDO, Nashik the Divisional Caste Scrutiny Committee no.1, Nashik Division, the Petitioner has filed this petition.

2. Having heard learned counsel for parties, we are of the view that when the SDO, Nashik had observed that the application of Petitioner is not maintainable before him and the Petitioner ought to have filed

application before SDO, Igatpuri-Tryambakeshwar, it was not open for the said authority to have decided the said matter on merits. Learned counsel for Petitioner submits that the Petitioner is willing to file an application before the competent authority i.e. SDO, Igatpuri-Tryambakeshwar, but the observations made by SDO, Nashik and upheld by appellate authority, would come in his way.

3. Having considered the aforesaid submission, we are of the view that when the original order itself was without jurisdiction, the SDO, Nashik was not competent to decide the same on merits and as such the observations made by SDO, Nashik in regard to merits of the matter, which have been upheld by the appellate authority, are hereby quashed and set aside. We grant liberty to the Petitioner to file appropriate application before competent authority which according to Respondent-State is SDO, Igatpuri-Tryambakeshwar. In case such an application is filed by the Petitioner, the said authority shall decide the Petitioner's claim on merits and in accordance with law, uninfluenced by the observations made by SDO, Nashik in his order (Exhibit-E) and Divisional Caste Scrutiny Committee no.1, Nashik Division in its order (Exhibit-G).

4. With the above observations and directions, the petition stands disposed of.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)