

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.97 OF 2017
ALONG WITH
WRIT PETITION NO.98 OF 2017

Ibrahim Abdul Kader. .. Petitioner
Vs
State of Maharashtra and Others. .. Respondents

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Shri R.K. Mendadkar i/b Shri Chirag K. Sancheti for the Petitioner in both the Petitions.
Shri Manish M. Pabale, AGP for the Respondent Nos.1 to 4 in both the Petitions.
Shri S.R.Ganbavale for the Respondent No.5 in both the Petitions.
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CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ

DATED : 23RD JUNE 2017

PC.

1. In both the Writ Petitions, we issue Rule. The Advocate for the fifth Respondent waives service and the learned AGP waives service for rest of the Respondents. Forthwith taken up for final disposal.

2. The challenge in both these Writ Petitions is to the orders passed by the Scheduled Tribes Certificate Scrutiny Committee, Konkan Division, Thane, on 14th June 2011 granting caste validity certificate to the fifth Respondent by upholding the caste claim that she belongs to Koli Malhar, which is a Scheduled Tribe.

3. Perusal of the impugned orders shows that the same are in a pre-conceived format and only some blank portions are filled in. Moreover, in the reply filed by Mrs. Shobha Madhukar Nemade, the Research Officer of the Scheduled Tribe Scrutiny Committee, it is an accepted position that a report of the Vigilance Cell was not called for as required by the provisions of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (for short "the said Rules").

4. Thus, the impugned orders are vitiated for more than one reason. The first reason is that there is no inquiry through Vigilance Cell as required by the said Rules and second reason is that the orders are in pre-conceived format which shows non-application of mind by the Caste Scrutiny Committee. Only on these two grounds, the impugned orders deserve to be quashed and set aside by passing the following order.

ORDER :

- (a) The impugned orders as well as Caste Valid Certificates issued on the basis of the impugned orders are hereby quashed and set aside and the cases of the fifth Respondents (Smt.Smita Pravin

Khopkar in W.P. No.97 of 2017 and Smt. Rukmini Vitthal Jadhav in W.P. No.98 of 2017) are remanded to the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane;

- (b) The parties are directed to appear before the said Committee on 14th July 2017 at 11.00 a.m. for fixing the schedule of hearing;
- (c) The Caste Scrutiny Committee shall endeavour to decide the matters as expeditiously as possible and preferably within a period of six months from the date fixed for appearance of the parties;
- (d) We make it clear that though we have set aside the impugned orders and impugned caste validity certificates, no adjudication is made on merits of the claim of the fifth Respondent in both the Petitions;
- (e) All contentions on merits are left to be decided by the Caste Scrutiny Committee;

- (f) Rule is partly made absolute on above terms;
- (g) All concerned to act upon an authenticated copy of this order.

(SMT.VIBHA KANKANWADI, J)

(A.S. OKA, J)