

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4940 OF 2016

Madhukar Uttam Chavan
Aged 48 years, residing at
Plot No.18-19, Akash Row
Bungalow-1, Chanakya Nagar,
Near Khutwad Nagar,
Kamatwade Shivar, Nashik

... Petitioner.

Versus

1. State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400 032.
2. Scheduled Tribe Certificate
Scrutiny Committee, Nashik
Division, Nasik through its
Member Secretary having its
office at Adivasi Vikas Bhavan
Old Agra Road, Nasik,
Dist. Nasik.
3. Dy. Superintendent of Police,
Nashik Rural, Nashik
4. Executive Magistrate,
Nashik, Dist. Nashik.

... Respondents.

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Mr. R.K. Mendadkar a/w Mr. T.V. Jadhav and Ms. Priyanka Shaw
for the Petitioner.

Mr. N.C. Walimbe, AGP for Respondent Nos. 1 to 3.

....

***CORAM : R.M.BORDE &
R.G. KETKAR, JJ.***

DATE : 04th JANUARY, 2018

ORAL JUDGMENT (Per R.M. Borde, J.) :

1. Heard.
2. Rule. With the consent of the parties, the petition is taken up for final decision at admission stage.
3. The petitioner claims to be belonging to 'Thakur', Scheduled Tribe. He has been appointed as Police Constable as against the seat reserved for the Scheduled Tribe category. The tribe certificate issued to the petitioner by the Executive Magistrate, Nashik on 13.01.1987 was produced for verification to the Scrutiny Committee, Nashik. However, the Scrutiny Committee has refused to verify the caste status of the petitioner on the ground that the original place of residence of the forefathers of the petitioner is from Jalgaon district and the competent authority to issue the tribe certificate is the Sub-Divisional Officer / Executive Magistrate, Jalgaon. According to the Scrutiny Committee, the petitioner ought to have secured the tribe certificate from the Sub-Divisional Officer / Executive Magistrate, Jalgaon and should have submitted the same for verification to the competent Scrutiny Committee. The Scrutiny Committee, as such, rejected the caste / tribe claim of the petitioner and further directed cancellation of the tribe certificate of the petitioner issued by the Executive Magistrate, Nashik on 13.01.1987 and confiscated the same.

The petitioner has been granted liberty to obtain the tribe certificate from the competent authority and produce the same for verification to the competent Scrutiny Committee.

4. The counsel appearing for the petitioner contends that it was incumbent for the Scrutiny Committee to take a decision as regards the status claim of the petitioner although the tribe certificate has been issued by the Executive Magistrate, Nashik which, according to the Scrutiny Committee, has no authorization to issue the same.

5. The petitioner places reliance on the judgment of the Division Bench in the matter of ***Niraj Kamlakar More Vs. Scheduled Tribe Certificate Scrutiny Committee & Ors. 2012 (6) Bom. C.R. 221***. The Division Bench of this court has taken a view that the Scrutiny Committee cannot refuse to verify the status claim of the applicant particularly on the ground that the certificate has been issued by the authority, who does not have territorial jurisdiction to issue such certificate for the reason that the applicant is not the resident of the said area. A contrary view is expressed by the another Division Bench and the matter has been referred to a larger Bench for consideration. Apart from the pendency of the issue involved in the matter with the full Bench, the instant petition does not wait for adjudication of issue by the larger Bench and can be conveniently disposed of by granting liberty to the petitioner to obtain tribe certificate from the Sub-Divisional Officer, Jalgaon and produce the same for verification to the Scrutiny Committee, Nandurbar.

6. The petitioner is in employment since 1989 and is occupying the seat earmarked for the reserved category candidate. The petitioner agrees to tender an application to the Sub Divisional Officer, Jalgaon in proper format within a period of four weeks from today together with the photostat / certified copy of the tribe certificate issued to him by the Executive Magistrate, Nashik on 13.01.1987. The petitioner shall have liberty to approach the Caste Scrutiny Committee at Nashik for issuance of the certified / duly verified photostate copy of the certificate issued by the Executive Magistrate, Nashik on 31.01.1987 and produced before the Scrutiny Committee for verification. The petitioner shall tender an application to the Caste Scrutiny Committee, Nashik for issuance of the photostat / certified copy of the caste certificate issued by the Executive Magistrate, Nashik within a period of four weeks from today and the Scrutiny Committee, Nashik shall issue the photostate / certified copy of the said certificate within three days from the date of receipt of the application. The Sub-Divisional Officer, Jalgaon, on receipt of an application for issuance of the caste certificate by the petitioner, shall issue the certificate in prescribed proforma without embarking upon further enquiry into the matter and relying upon the photostate / certified copy of the caste certificate issued by the Executive Magistrate, Nashik on 13.01.1987 within a period of 15 days from the date of receipt of the application. After issuance of the tribe certificate by the Sub-Divisional Officer, Jalgaon as specified above, the petitioner shall produce the same for verification together with the proposal to the Scrutiny Committee, Nandurbar within a period of six weeks from the date of receipt of the tribe certificate. The

Scrutiny Committee, Nandurbar shall accept the proposal that would be submitted by the petitioner directly and shall proceed to verify the status claim of the petitioner in accordance with law and the provisions of the Maharashtra Scheduled Castes, 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 and Rules framed thereunder. The Scrutiny Committee, Nandurbar shall take appropriate decision in the matter as expeditiously as possible, preferably within a period of eight months from the receipt of the proposal.

7. With the directions as above, the writ petition stands disposed of.

8. Until the decision is taken by the Scrutiny Committee, Nandurbar in respect of the verification of the tribe certificate of the petitioner, the respondents shall not take any coercive action against the petitioner.

9. Rule made absolute accordingly. There shall be no order as to costs

(R.G. KETKAR)
JUDGE

(R.M. BORDE)
JUDGE