

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9073 OF 2018

Pranjlal Rajendra Aher .. Petitioner
Versus
The State of Maharashtra & ors .. Respondents

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Mr. P.N. Patil i/b L.S. Deshmukh for the petitioner.
Mr.S.B.Kalel, AGP for the State.

**CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 13th AUGUST 2018

P.C:-

1 In this petition under Article 226 of the Constitution of India, the order passed by the Scrutiny Committee, copy of which is at page 43 (Exhibit-F) is challenged on the ground that the Committee has failed to assign reasons for the conclusion or the operative direction.

2 The order passed by the Scrutiny Committee, copy of which is annexed to the writ petition reads as under :

“The Scrutiny Committee heard the applicant on 10/08/2018. The Scrutiny Committee has gone through all the documentary evidence, enquiry report of Vigilance Cell, written and oral submission of the applicant. The Scrutiny Committee has come to the conclusion that the applicant failed to establish his tribe claim towards Koli Mahadev, Scheduled Tribe. The show cause notice issued to applicant's blood relative Rajendra Sampat Aher, Dilip Sampat Aher, Fulandevi Sampat Aher and Sanjay Shivaji Aher. Therefore, his claim towards the same is held invalid detail order will be followed within 30 days”.

2 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 (XXIII of 2001) very clearly says that the Committee shall pass orders as mandated by law. Section 6 of the Act is titled as 'Verification of Caste Certificate by Scrutiny Committee'. Sub-section (4) of Section 6 says that the Scrutiny Committee shall follow such procedure for verification of the caste certificate and adhere to the time limit for verification and grant of validity certificate as prescribed. The order to be

passed by the Scrutiny Committee in terms of the above has to confirm with the requirement in law and which is also amplified by the Maharashtra Scheduled Tribes (Issuance and Verification of) Caste Certificate Rules, 2003. Rule 11, 12 and 13 say that there has to be a verification of Scheduled Tribe Certificate by Scrutiny Committee in terms of the procedure set out in Rule 12. Sub-rule (9) of this Rule very clearly says that after personal hearing, if the Scrutiny Committee is satisfied regarding the genuineness of the claim, validity certificate shall be issued in FORM G. After personal hearing, if the Scrutiny Committee is not satisfied about the genuineness of the claim and correctness of the Scheduled Tribe Certificate, it shall pass an order of cancellation and confiscation of the certificate and communicate the same to the competent authority for taking necessary entries in the register and for further necessary action. Thus, the sweep of the powers of the Committee under this law denotes that it is a quasi judicial body, a substitute for a civil court and the order passed by it results in civil consequences. The applicant virtually loses the caste certificate based on which the scrutiny and verification is done. That is

treated as cancelled and confiscated. Therefore, the Scrutiny Committee is mandated to pass an order. The words and expression “it shall pass an order” indicate that it has to pass a reasoned order. It should determine the points for its consideration, refer to the oral arguments. It should also refer to the evidence on record and then set out reasons for not accepting the claim. There has to be an application of mind independent of that of the competent authority at the stage of issuance of the caste certificate. Merely because the caste certificate is issued, does not mean that it is binding. The underlying claim has to be verified and scrutinized by the Committee and that is the obligation to be discharged by the Scrutiny Committee. It cannot do a incomplete or haphazard job. It cannot say that it has passed an order but it will assign the reasons later on. This would defeat and frustrate the object and purport of the Act. Once we find that the Committee cannot do this, then, on this short ground alone, this writ petition succeeds. The impugned order is quashed and set aside. The matter is sent back to the Committee for scrutiny and verification of the Tribe claim of the petitioner.

3 The Writ Petition is allowed in these terms.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)

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Tilak

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