

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13645 OF 2018

Subhash Wamanrao Jagdale .. Petitioner
Versus
State of Maharashtra thru Secretary
Medical Educational & Trust Dept and ors. Respondents

WITH
WRIT PETITION NO.14599 OF 2018

Namrata Tabaji Jagdale .. Petitioner
Versus
State of Maharashtra & Anr .. Respondents

WITH
WRIT PETITION NO.14538 OF 2018

Harshida Amar Jagdale .. Petitioner
Versus
State of Maharashtra & Anr .. Respondents

WITH
WRIT PETITION NO.14600 OF 2018

Pritish Amar Jagdale .. Petitioner
Versus
State of Maharashtra & Anr .. Respondents

...

Mr. R.K. Mendadkar with Ms.Komal Gaikwad for the
petitioners.
Mr.S.B. Kalel, AGP for the State.

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

DATED : 22nd DECEMBER, 2018

P.C:-

1 By this petition under Article 226 of the Constitution of India, the common order of the Scrutiny Committee invalidating the claims of the petitioners as belonging to Koli Mahadeo Scheduled Tribe is challenged.

2 The common order disposes of the claims of the petitioners Jagdale Namrata Tabaji, Jagdale Subhash Wamanrao, Jagdale Harshada Amar, and Jagdale Prithish Amar. Some of them were seeking a certificate of validity in order to pursue their education and after seeking admission on a reserved seat, while one of them was interested in joining public service. Since such a certificate of validity was required and in terms 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, 2001 (for short "Maharashtra Act No.23 of 2001) to avail

Tilak

of the benefits and concessions, meant for Scheduled Tribes, that the caste certificates came to be forwarded for the scrutiny and verification of the underlying claim.

4 A joint scrutiny and verification has resulted in the order and which is common.

5 During the course of arguments earlier, we had pointed out to the learned AGP the fallacy in the approach of the Committee. The Committee should have noted the peculiar facts and circumstances of these individuals and then, proceeded to invalidate the claim. If the individuals were not in possession of the requisite and relevant material, then, the Committee was obliged to hold, qua each individual, that the claim cannot be accepted. Instead, by this common order, the documents are referred but a scrutiny of individual claim has not been made satisfactorily. The contents of the documents pertaining to each individual have not been taken into consideration. Since this vitiates the exercise and there is non-application of mind by the Scrutiny Committee, we had granted

time to Shri Kalel to take instructions and also produce the original record.

6 The matter was listed today for passing final orders.

7 After Shri Kalel took instructions and produced the record, he stated that the Committee indeed has failed to apply its mind to individual claims and deal with the documents produced by these individuals satisfactorily. In other words, the oral and documentary evidence on behalf of each claimant would have to be referred and that will be done now.

8 In the light of this statement of Shri Kalel, we proceed to quash and set aside the impugned order. We allow the writ petition but with a liberty granted to the Scrutiny Committee to process, scrutinize and verify the claim of each of the petitioners separately. Meaning thereby, a separate order will have to be passed in case of each of the individuals and after a reference is made to the oral and documentary evidence produced on their behalf.

9 The fresh order shall be passed by the Committee without being influenced by its earlier order which we have quashed and set aside in these petitions.

10 We clarify that we have not expressed any opinion on the rival contentions.

11 The Writ Petitions are allowed in these terms with no order as to costs.

12 In the event the petitioner in writ petition no.13645 of 2018 is in service, then, let the service be not terminated only on the ground of non-production of the caste validity certificate.

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