

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

WRIT PETITION NO. 126 OF 2018

Smt. Mandakini Tryambak Bhoye .. Petitioner

v/s.

Schdeuled Tribe Certificate Scrutiny
Committee & Ors. ..Respondents

Mr. Sugandh Deshmukh for the Petitioner.

Mrs. R.M.Shinde, AGP for the State.

Mr. Shriram Kulkarni a/w. Amit Balkrishna for Respondent No.3.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : JULY 16, 2018.

P.C. :

1. Heard. The petitioner has challenged the Order of the Caste Scrutiny Authority, dated 21st January, 2012, and thereby validated the Caste Claim of the petitioner that she belongs to Schedule Tribe “Kokna”.

2. This Order was challenged by filing Writ Petition No. 2143 of 2012 before the Division Bench of this High Court. The said petition, along with bunch of petitions came to be disposed of by

common order. The concluding paragraphs i.e. para 55, 56 and 57 read thus:-

“55. In the result we direct as under:

(i) The Government Resolution dated 30-7-2011 is quashed and set aside.

(ii) It is declared that the composition of the scrutiny committees constituted by the State of Maharashtra by the Government Resolution dated 30-7-2011 is not backed by law and is contrary to the judgment of the Apex Court in the case of Madhuri Patil vs. Additional Commissioner, Tribal Development, reported in 1997(5) SCC 437 and the validity certificates issued by such committees will have no force of law and are void ab-initio.

(iii) It is declared that the validity certificates issued by the Scrutiny Committees without calling for the report from vigilance cell, being a mandatory requirement of law, cannot be considered as valid in the eyes of law and suffer from jurisdictional error which goes to the root.

(iv) We direct the State Government to ensure that all

the original certificates issued by the specially constituted Scrutiny Committees under the Government Resolution dated 30-7-2011, are recovered from the respective persons and are destroyed forthwith. This shall be done within three months from today.

56. These writ petitions are disposed of accordingly.

57. At this stage, request is made on behalf of State Government to stay the operation of this judgment and order for a period of ten weeks from today. Accordingly, operation of the directions contained in paragraph no.55 are stayed for a period of ten weeks from today.

3. The State Government challenged the above said order before the Apex Court by filing Special Leave Appeal (Civil) No. 16728 of 2012. The present petitioner has intervened in the said SLP. On 3rd July, 2012 the Supreme Court passed following order:-

“Permission to file the special leave petition is granted.

Issue notice in all the matters and let all of them be taken up for consideration together.

The matters are made returnable after six weeks, within which time service should be completed on the respondents.

Let these matters be listed on the returnable date.

When the matters were taken up for consideration, Mr. Shanti Bhushan, learned senior counsel, intervened and submitted that various writ petitions have been disposed of by the common judgment of the High Court, which has been impugned in these proceedings and that Special Leave Petitions have not been filed in all such writ petitions. In fact, it is submitted by him that he represents some of the writ petitioners, whose matters are not before this Court in these proceedings and that such writ petitioners intend to file intervention applications in these matters.

Leave is given to such parties to file such applications, if so advised.

The respondents would be entitled to file their respective counter affidavit to the special leave petition

within four weeks. Rejoinder, if any, may be filed within two weeks thereafter.

In the meantime, the stay granted by the High Court of its own judgment, shall continue”

4. Thus, the issue regarding validity of the Caste Certificate is pending before the Supreme Court. The petitioner by filing a fresh petition once again cannot challenge the same.
5. The petition is devoid of merits and the same is dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)

Prasanna
Pradeep
Salgaonkar

Digitally signed
by Prasanna
Pradeep
Salgaonkar
Date: 2018.07.18
11:16:02 +0530