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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2743 OF 2019

Anjali d/o Angad Nilewad,
Age: 21 years, Occu: Education,
R/o: Hadolti, Tq. Ahmedpur,
Dist. Latur

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai
2. The Schedule Tribe Certificate
Verification Committee, Aurangabad,
Through its Deputy Director (R),
Aurangabad
3. The Sub Divisional Officer, Ahmedpur,
Dist. Nanded

..RESPONDENTS

Mr S. M. Vibhute, Advocate for petitioner;
Mr V. S. Badakh, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 27th February, 2019

ORAL ORDER:

Heard Mr Vibhute, learned Counsel appearing on behalf of the petitioner.

2. The present petition is filed on 6th June, 2017, challenging the order dated 18th March, 2017, passed by respondent No.2 - Scrutiny Committee.

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Considering the issue involved in the petition on the backdrop of the submissions of learned Counsel and also on the backdrop of the judgment/order relied on by learned Counsel for the petitioner in support of his submissions, we are inclined to take up the petition for final disposal at admission stage.

3. Issue notice to respondents, returnable forthwith.
4. Learned Asstt. Govt. Pleader waives service of notice for all the respondents.
5. The petitioner is a student. A certificate was issued to the petitioner through the Deputy Collector, Latur on 27th April, 2001 that the petitioner belongs to 'Koli Mahadeo' (29) scheduled tribes. The petitioner was admitted in Mahatma Gandhi College, Ahmedpur, Dist Latur and the certificate/claim was forwarded to the Scrutiny Committee for verification and the same was received by the Committee on 1st November, 2010. The Committee observed that there is an error in reference to the word 'Mahadev' and it is referred to as 'Mahadeo' instead of 'Mahadev'. Then the Committee observed that there is a difference in these two spellings and then by referring to the judgment of the Honourable the Apex Court in the matter of **State of Maharashtra Vs. Milind**, reported in **1 SCC 4** as well as the order of this Court in the matter of **Ramakant Bajirao More Vs. Member**

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Secretary, Scheduled Tribe Certificate Verification Committee and ors.,

passed in Writ Petition No.7162 of 2010 and further by observing that the Presidential list will have to be read over as it is, cancelled the certificate issued in favour of the petitioner with further directions of confiscation of the certificate. The Scrutiny Committee further observed that the Deputy Collector (E.G.S.), Latur is required to verify whether the certificate is issued in favour of the petitioner or not and then permitted the petitioner to obtain appropriate certificate with a proper nomenclature under the seal and signature of the competent authority with further liberty to submit the same to the Scrutiny Committee subject to assessment of its merit and the order was passed.

6. Mr Vibhute, learned Counsel for the petitioner submitted that the petition was pending in this Court and during the pendency, the petition came across with the decision of this Court in a bunch of petitions, namely, Writ Petition No.6263 of 2017 with connected petitions, dated 20th June, 2017 as well as order dated 4th July, 2017, passed in Writ Petition No.8488 of 2017. It was the further submission of Mr Vibhute that the petitioner was under an impression that the Scrutiny Committee will not insist for obtaining a fresh certificate in view of the judicial decisions and it will pass appropriate orders, as such, the petitioner approached the Scrutiny Committee. On approaching the Scrutiny Committee, the petitioner was informed to undertake the exercise of seeking order from this Court. As

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such, the petition is circulated before us.

7. Certain similar nature of petitions came before us, wherein the petitioners, post decision of the Scrutiny Committee, approached the Sub Divisional Officer with a request to issue fresh certificate and as the applications were pending before the Sub Divisional Officer or the Sub Divisional Magistrate, as the case may be, filed writ petitions before this Court for seeking necessary directions. At that point of time, our attention was not invited to the order dated 4th July, 2017, passed in Writ Petition No.8488 of 2017, though in some petitions, our attention was invited to the order dated 20th June, 2017, passed by this Court in a bunch of petitions, namely, Writ Petition No.6263 of 2017 and other connected petitions. Accordingly, we have passed the orders thereby directing the Sub Divisional Officer/Sub Divisional Magistrate, as the case may be, to issue fresh certificates with correct nomenclature and the petitioners have submitted undertaking that they would surrender their earlier certificates to the Sub Divisional Officer.

8. As today our attention is invited to the order dated 4th July, 2017, passed by this Court in Writ Petition No.8488 of 2017, it is appropriate to record certain observations. The Division Bench, in order dated 4th July, 2017, in clear and unambiguous words, expressed displeasure for not accepting the reasons assigned by the Committee while rejecting the claims

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on the ground of the so-called typographical error or the spelling mistake. It will not be out of place to reproduce the observations of the Division Bench in para 4 of the said order, which reads thus:

"4. According to the Scrutiny Committee, it is entirely its invention that the Scheduled Tribe Order, 1976 as far as Maharashtra is concerned, against entry no. 27 spells this tribe as "Mannervarlu" and instead of the alphabet 'V', 'W' having been typed in the caste certificate, there is a doubt about the certificate. We had passed detailed judgment and order that the principle invoked by the committee to deny or refuse to scrutinize and verify the claim is inapplicable. None is reading into, adding or modifying or taking away anything from the constitutional entry no. 27 which is referred in the tribe certificate. If the spelling is erroneous that does not mean that the claim cannot be scrutinized. The claim has to be verified and scrutinized in accordance with 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 (for short the "Maharashtra Act No. 23 of 2001"). That obligation and duty of the Scrutiny Committee has to be discharged irrespective of such spelling errors. It is unfortunate that people are harassed by the Scrutiny Committee on absolutely untenable and frivolous grounds such as the one noted by us and now even a corrected certificate has been obtained by the petitioner."

Emphasis supplied.

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9. The Division Bench further observed that once we have set aside the Scrutiny Committees order in similar matters and that order binds the Scrutiny Committee across the State including Marathwada region, we do not expect these Committees to hereafter pass such orders. Not only this, but the Division Bench also recorded an order of caution to the Scrutiny Committee by stating that if they pass such orders, we would take punitive action against their members. We will direct their prosecution as also recover from them personal costs. Once the candidate is not responsible for any of these actions or acts of the statutory authorities, we expect him not so suffer at their hands. We, therefore, direct that all earlier orders of all Scrutiny Committees in Marathwada Region and to the above effect are quashed and set aside. No committee should give effect to any such order and direction hereafter. None should be directed to file individual petitions in this Court and get the review of the committee set aside or reversed. The Division Bench further observed that a copy of this order shall made available to learned Asstt. Govt. Pleader for forwarding it to all the Scrutiny Committees as also the Commissioner of Tribal Development.

10. We were more surprised to see that when this was an order passed by this Court way back on 4th July, 2017 with a clear-cut directions that all the earlier orders of the Scrutiny Committees in Marathwada are quashed and set aside and none of the individual is required to approach this Court for the same grievance again and again, the Scrutiny Committee had not mend its

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ways and many of the petitions came before this Court raising this grievance only. Least to say, it was expected of the Committees that the better sense should have prevailed over the Committee when the Committee was taken to task by this Court in order dated 4th July, 2017 and would have acted in a fair manner by creating or rectifying its earlier mistakes, but it seems that the Committee, in spite of the directions of this Court took pride in passing the similar orders and then further prompting many person including the students or the employees to approach this Court by filing numerous petitions.

11. Insofar as present matter is concerned, the order of the Committee was passed on 18th March, 2017 i.e. prior to the two orders of this Court, dated 20th June, 2017 and 4th July, 2017, respectively. Though we may not find any fault with the Committee and though in view of the orders of this Court, we are allowing the petition in terms of prayer clause (B), we are making it very clear that if we come across with the similar approach of the Committee which is sought to be prevented by this Court by a judicial order dated 4th July, 2017, this Court would be constrained to pass the orders taking recourse to the proposed action, which is explicitly made clear in the order dated 4th July, 2017 and particularly in para 5 of the order.

12. With the above observations, the petition is disposed of.

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13. Learned Asstt. Govt. Pleader to forward forthwith a copy of this order to the respective Secretaries of the Departments including Member Secretary to Tribal Development Department and to the respective Committees constituted for various regions or divisions.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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