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

WRIT PETITION NO.762 OF 2019

Vivek s/o Madhav Jampawad,
Age: Major, Occ: Service,
R/o. Kodli, Tq. Udgir,
Dist. Latur

..PETITIONER

VERSUS

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai.
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Through its Member Secretary.
3. The Sub Divisional Officer,
Udgir, Tq. Udgir,
Dist. Latur.
4. The Deputy Commissioner of Police,
Bruhan Mumbai.

..RESPONDENTS

Mr Vivek U. Jadhav, Advocate for petitioner;
Mr S.S. Dande, A.G.P. for respondent/State

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

DATE : 22nd JANUARY, 2019

ORAL ORDER :

Heard learned Counsel appearing for the
petitioner.

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2. Considering the issue involved in the petition, the petition is taken up for final disposal, by consent of the parties.

3. The petitioner challenges the order dated 31st March, 2017 passed by respondent No.2 – Scheduled Tribe Certificate Scrutiny Committee, Aurangabad (hereinafter referred to as 'Committee' for the sake of brevity). By the said order, the Committee cancelled and confiscated the certificate issued by respondent No.3 – Sub Divisional Officer, Udgir, District Latur and further observed that the petitioner is at liberty to seek a fresh certificate from the competent authority and further subjecting fresh certificate so obtained by the petitioner for its validation to the Committee.

4. Learned Counsel appearing for the petitioner, by inviting our attention to the documents placed on record, submitted that the Sub Divisional Officer, Udgir, District Latur issued

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certificate in favour of the petitioner on 11th July, 2004 and it is stated that the petitioner belongs to Koli Mahadev – Serial No.29. The Committee passed the order observing that there is a difference in the spelling in the proposal submitted by the petitioner and then the Committee refers to a decision of the Hon'ble the Apex Court as well as decision of this Court and then states that the Committee does not possess powers to change the nomenclature.

5. The petitioner was appointed in the employment of respondent No.1 – State, under the order of respondent NO.4 – Deputy Commissioner of Police, Bruhan Mumbai and till today, he is serving as police constable. It is submission of learned Counsel for the petitioner that for spelling mistake in the certificate, the petitioner is not responsible and the petitioner has no role to play in the matter of issuance of certificate by respondent No.3 except requesting respondent No.3 to issue certificate.

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6. Learned Counsel then invited our attention to the judgment of this Court dated 20th June, 2017 in Writ Petition Nos.6263 of 2017 and 6206 of 2017. While allowing the above referred petitions and quashing and setting aside the order passed by the Scrutiny Committee, the Division Bench issued further directions in paragraph-16 of the said judgment and order and same reads thus :

“16. The scrutiny committee shall return original tribe certificates produced by the individual petitioners to them within four weeks from today. Each of the petitioners shall tender an undertaking to the scrutiny committee, that the concerned petitioners would approach the concerned competent authority for ratifying the spelling mistake occurred in recording name of the tribe and shall produce the correct certificate within a period of eight weeks from the date of receipt of the original certificate (which has been produced to the scrutiny committee). The concerned competent authorities/Sub Divisional Officers, on receipt of an

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application together with the original tribe certificate issued in favour of the individual petitioners, shall make necessary correction in respect name of the tribe (correct the spelling of Tribe) and record the same in consonance with the relevant entry in respect of tribe in the schedule to the Constitutional Order. The corrected certificate shall be issued by the Sub Divisional Officers/Competent Authorities within a period of four weeks from the date of approach of the concerned individual petitioner, without embarking upon any enquiry since the holder of certificate had received the Tribe Certificates issued by the competent authority after conducting due enquiry."

7. We see no reason to take any other view than the view adopted by the Division Bench in the order referred to above. Accordingly, we allow the writ petition by quashing and setting aside the order of the Committee dated 31st March, 2017.

8. We direct the Scrutiny Committee to return original tribe certificate of the petitioner within

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four weeks from today. The petitioner to tender an undertaking to the Scrutiny Committee that he would approach the concerned competent authority for rectifying the spelling mistake occurred in recording name of the tribe and shall produce the corrected certificate within a period of eight weeks. Respondent No.3 – Sub Divisional Officer, Udgir, District Latur, on receipt of the application together with original tribe certificate issued in favour of the petitioner, shall make necessary correction in respect of name of the tribe (correct the spelling of tribe) and record the same in consonance with the relevant entry in respect of tribe in the Schedule to the Constitutional Order. The corrected certificate shall be issued by the competent authority within four weeks from the date of approach of the petitioner without embarking upon any enquiry.

9. On receipt of corrected tribe certificate, the petitioner shall submit the same to the Scrutiny Committee forthwith. The Scrutiny

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Committee to decide and take decision on the proposal in respect of verification of the tribe certificate, on merits and in accordance with law, as expeditiously as possible and preferably within a period of one year from the date of receipt of the corrected certificate from the petitioner.

10. Until decision of the proposal for verification of the tribe claim by the Scrutiny Committee, no adverse action shall be taken by the employer prejudicially affecting the interest of the petitioner.

11. Before parting, we feel it appropriate to refer to the certain observations of the Division Bench of this Court in the judgment and order dated 20th June, 2017 in Writ Petition Nos.6263 of 2017 and 6206 of 2017 (Coram: R.M. Borde & K.L. Wadane, JJ.). Relevant Paragraph Nos.3, 4, 14 and 17 read thus :

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"3. This avoidable litigation is generated as a result of an inadvertent error committed by the concerned authorities while issuing tribe certificates to the petitioners. The scrutiny committee has also adopted a hyper technical approach and directed invalidation of the tribe certificates on technical grounds by compelling hundreds of petitioners to approach this Court and thereby putting them to inconvenience including the financial loss on account of approach to this Court by presenting the petitions. The hyper technical approach adopted by the scrutiny committee, apart from facilitating clearance of hundreds of matters pending before the scrutiny committee, has added to number of dockets before the High Court.

4. In most of the petitions, the tribe certificates issued to the petitioners by the respective Sub-divisional Officers (SDOs) or the Executive Magistrates, as the case may be, have been cancelled and confiscated by the scrutiny committee on account of occurrence of error in correctly recording the spelling of the concerned tribe. In case of 'Mannervarlu' tribe, the certificates have been issued recording

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incorrect spelling as 'Mannerwarlu'. Similarly in certain matters, while issuing certificates by the concerned authority, in favour of the petitioners belonging to 'Kolimahadev' scheduled tribe, an inadvertent error has occurred in recording the name of the tribe as 'Kolimahadeo'. Similarly in few matters, there is an inadvertent error in respect of recording of the name of the tribe 'Tadvi' by the concerned competent authority. The tribe has been wrongly recorded as "Tadavi".

14. It is thus clear that Rules require the scrutiny committee to consider the claim of an individual applicant as belonging to a particular tribe. In the instant matters, the scrutiny committee has not investigated as regards genuineness of claim of any of the petitioners as belonging to ST, however, has proceeded to reject the proposals on hyper technical reasons i.e. spelling mistakes occurring in the tribe certificates issued by the Competent Authority. It was open for the scrutiny committee to get the errors, as regards the spelling of a particular tribe, corrected by issuing directives to the concerned competent authority. The

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petitioners could have been directed to get the errors ratified by keeping the matters pending. There was absolutely no reason for the scrutiny committee to reject the claim of each of the petitioners on hyper technical grounds. The Judgments of the Honourable Supreme Court quoted by the scrutiny committee and referred as above, arise out of totally different set of facts and are not relevant for determination of issue or the inadvertent error that has crept in while issuing tribe certificates by competent authority. The scrutiny committees are expected to deal with the merits of the contentions and find out as to whether claim raised by an individual applicant as belonging to a particular tribe is correct or not. The scrutiny committee shall not reject the matters on hyper technical grounds such as occurrence of spelling mistake in recording the name of the tribe in the certificate. The competent authority, while issuing certificate has correctly recorded the entry number relating to a particular tribe occurring in the schedule to the constitutional order. However, as regards the inadvertent spelling mistake, the scrutiny committee ought to have got it

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corrected by issuing directions to the concerned competent authority or by granting liberty to the petitioners to get mistake ratified by approaching concerned issuing authority. It is noticed by us that, on earlier occasions also, the scrutiny committee had rejected hundreds of proposals for such technical error in recording the correct name of the tribe as 'Mahadevkoli' instead of 'Kolimahadev'. This Court was required to issue necessary directions to safeguard the interests of the certificate holders. The practice adopted by the scrutiny committee in rejecting the claims for hyper technical errors cannot be approved.

17. It is noticed

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..... The scrutiny committee, hence forth, shall not reject the verification claims merely on the ground of occurrence of spelling mistake in recording the name of the tribe and shall proceed to decide the claim of an individual as belonging to a particular tribe on merits. In such circumstances, the scrutiny committee shall direct petitioners to produce corrected tribe

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certificate and shall issue necessary directions for recording corrections to the competent authority by keeping the proposals pending."

12. We hope that better sense would prevail over the Committee for giving a fresh look to the claims on the backdrop of observations referred above and would lead to reduce the number of identical petitions which are filed and cropping up in this Court every day for decision.

13. The petition is disposed of in above terms.

(**S.M.GAVHANE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE

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