

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1989 OF 2019

Ravindra Devram Bhosale Petitioner
Vs.
State of Maharashtra & Others Respondents

Mr. R.K. Mendadkar with Ms Komal Gaikwad &
Ms Tejaswini Bhamare for the Petitioner.
Mr. S.B. Kalel, AGP, for the Respondent-State.
Mr. Shirprasad Kakade, Law Officer, Nashik
Committee, present.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 15, 2019

P.C:

1. After this matter was heard for some time on the earlier occasion and today, now it is clear that the process of verification and scrutiny will have to be undertaken by the 2nd respondent-Committee which is at Nashik.

2. The earlier stand of the respondents that they did not receive the Caste Certificate nor any proposal in their office

was obviously incorrect.

3. Though the petitioner says that he has been employed by Vandniy Rashtrasant Tukdoji Maharaj Madhyamik Vidyamandir, Daund, District Pune, yet, the scrutiny will have to be undertaken by the 2nd respondent-Committee at Nashik and it is that Committee to which the Certificate was forwarded.

4. The Caste Certificate is dated 23-12-2002 and it is claimed that it was forwarded in the year 2007 and to be precise, on 20-2-2007.

5. Till date, the scrutiny was not completed is the grievance. Now there is a threat that the petitioner's services may be terminated.

6. Earlier it was said that the papers are not traceable but that was on the understanding that the matter is pending before the Scrutiny Committee at Pune. However, it was not the Pune Committee nor the Thane Committee where this matter is pending for scrutiny and verification but it is the Nashik

Committee.

7. Now that the papers have been found, it is stated by Mr. Kalel, on instructions of the 2nd respondent's Law Officer present in Court, that the scrutiny and verification will be completed as expeditiously as possible and in any event, before 15-5-2019.

8. We accept this statement as an undertaking to this Court.

9. We have found in matters after matters that the Scrutiny Committees are not serious about their tasks. The Maharashtra Act No.23 of 2001 provides for a scrutiny and verification of the claim and the presumption is that Caste Certificate, though issued by the Competent Authority, is not conclusive. Whether the person, whose name is mentioned in the Certificate is a Scheduled Caste or a Scheduled Tribe or an Other Backward Class or Vimukta Jati - Nomadic Tribe Member, has still to be determined and independent of this Caste Certificate, under the law. It is that process which has neither

been simplified nor been expedited. Now shortly this Act will celebrate two decades. It is for the authorities to take stock whether such a legislation, which is claimed to be very comprehensive, has succeeded or has achieved its aim, object and purpose. On every occasion, however, an attempt is made to dilute its rigour by extending the time for scrutiny and verification. Therefore, the deadline is never satisfied. The result is that the person who is elected as a representative of the people from a reserved seat continues as the representative, though not belonging to either the Scheduled Caste, the Scheduled Tribe or the Other Backward Class. Similar is the case with a student or a person seeking public employment. Almost all of them complete either their studies or their tenure without any Caste Validity Certificate being produced. The number of cases seeking directions to the Scrutiny Committee to expedite the process, pending before this Court, its Benches at Aurangabad and Nagpur, are a testimony to this unfortunate spectacle. It is, therefore, time that either the Legislature rethinks and does away with such a law so that the matter then

goes back to the Competent Civil Court or it brings in such reforms which will ensure that only genuine and *bona fide* claimants obtain the concession, relaxation and benefits meant for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. Now that the reservations for them have increased or that they have not been brought to an end is another reason for such a re-look. We have several complaints from the Scrutiny Committees as well. They definitely have substance, for they are lacking in manpower and infrastructure. They are not able to cope up with the increasing number of applications and which require a detailed scrutiny and verification of the claim of the claimant/applicant. That is why sometimes it takes a decade and more to conclude the proceedings. This case is a clear example.

10. Let a copy of this order, therefore, be forthwith forwarded to the Department concerned and particularly the Secretary therein. A copy may also be forwarded to the Principal Secretary, Law & Judiciary Department, Government of Maharashtra, Mantralaya, Mumbai, for information and

necessary action.

11. Needless to clarify that once the scrutiny and verification is directed to be completed by this Court's order and it is to be concluded by 15-5-2019, we expect the Management not to take any coercive steps till the Scrutiny Committee renders its decision and communicates it to the claimant. Our order and direction means that the Scrutiny Committee is obliged to forward a copy of this order with its letter to the Management.

12. The writ petition is disposed of in the above terms with no order as to costs.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)