

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4468 OF 2019

Ravi Rajendra Majkuri	...Petitioner
<i>Versus</i>	
The State of Maharashtra and Others	...Respondents

Mr SB Talekar, *for the Petitioner.*
Mrs AA Purav, *AGP for the Respondent-State.*

CORAM: S. C. Dharmadhikari &
G. S. Patel, JJ.
DATED: 30th August 2019

PC:-

1. Rule. Respondents waive service. By consent, Rule is made returnable forthwith and taken up for hearing and final disposal.

2. This petition, filed under Article 226 of the Constitution of India, seeks a very limited relief. The prayers at page 10 reads thus:

“A. To direct the respondent No.4 to verify and decide the tribe claim of the petitioner as belonging to Koli Mahadev at the earliest by issuing a writ of mandamus or any other appropriate writ, order or direction as the case may be;

B. To direct the respondent No.3 to issue degree certificate i.e. B.Tech in Civil Engineering to the petitioner, pending hearing and final disposal of this petition;

C. To direct the respondent No.5 to call the petitioner for personal interview and consider his claim for appointment to Maharashtra Civil Engineering Services-2018 from ST category, pending hearing and final disposal of this petition;”

3. We have heard Mr Talekar for the petitioner and the counsel for the respondents. The facts are in a narrow compass. The petitioner claims that his school records and those of his sister show their caste/tribe as Koli Mahadeo, a Scheduled Tribe. Annexed as Exhibits “A” and “B” are copies of those documents. Further the petitioner’s family holds a validity certificate issued by the scrutiny Committee, the 4th respondent, after following the regular procedure. This certificate, a copy of which is at Exhibit “C” to the petition at page 14, was issued on 21st January 2001.

4. The petitioner applied for a caste certificate to the Deputy Collector, Parbhani. Being satisfied, that officer issued a caste certificate by an order dated 11th October 2007 (Exhibit “B” at page 15).

5. The petitioner sought a verification of this claim by making an application to the 4th respondent-Committee on 3rd March 2015. A copy of this is at Exhibit “E” to the petition. For reasons we are unable to discern, that application has remained pending ever since. The petitioner even submitted on-line reminder applications

through the Grievance Redressal Portal and made representation to the Deputy Director and Principal Secretary of the 4th respondent. To this day, his claim remains without a decision.

6. In the meantime, the petitioner sought and gained admission to the first year degree course in technology at the Veermata Jijabai Technological Institute (“VJTI”), Matunga from the Scheduled Tribe reserved category. VJTI is the 3rd respondent and it is an autonomous technological institute. The petitioner was admitted in July 2014 against this Scheduled Tribe reserved seat and thereafter he passed his first, second, third and fourth year examinations. A copy of his final semester grade report is also annexed to this petition. The petitioner says that he passed his B.Tech in Civil Engineering after completing this course.

7. He then applied for the Maharashtra Civil Engineering Services Examination 2018 pursuant to an advertisement inviting applications. He qualified in the preliminary examination taken by the Maharashtra Public Service Commission (“MPSC”), the 5th Respondent, and then appeared for the Civil Engineering Service (Main) Examination on 25th November 2018. The results of the Maharashtra Public Services Civil Engineering (Main) Examination were published on 23rd March 2019. The petitioner was declared qualified.

8. The immediate problem is that the 3rd respondent, VJTI, has withheld his degree certificate only on the ground that he has not submitted a certificate of validity. The petition points out that the

petitioner could not submit this simply because the 4th respondent Committee done nothing towards deciding it for the last nearly four years.

9. The petitioner apprehends that he may not be called for viva-voce test for this reason and, therefore, questions the inaction on the part of the 4th respondent as being arbitrary, discriminatory, unjust and unreasonable.

10. We agree with Mr Talekar for the petitioner that the 4th Respondent's inaction is all this and worse. Matters relating to caste scrutiny, especially, or more particularly, when they are made by students are extremely time-sensitive. This is also true of matters of public employment. An invalidation has severe consequences. Those consequences cannot, in our view, be visited on a candidate or an applicant simply by not deciding his claim at all. There is no decision before us to assail on merits. In fact, there is no decision at all. All the representations made by the petitioner have gone unanswered and without positive action.

11. We realize that the 4th respondent Committee is in Aurangabad but the immediate problem for the petitioner is the 3rd respondent which is located in Mumbai. We have no hesitation in taking up the petition.

12. Having regard to these circumstances, and without in any way expressing any opinion on merits of the petitioner's claim for we

have no material on which to do so, we make the Rule absolute in the following terms:

- (a) The 4th respondent Scrutiny Committee will verify and decide the claim of the petitioner for a validity certificate that he belongs to the Koli Mahadeo Scheduled Tribe by a reasoned and speaking order no later than by 4th October 2019;
- (b) The petitioner will be entitled to appear in person or through a duly authorized representative before the 4th respondent.
- (c) In the meantime, the 3rd respondent, VJTI, is directed to immediately issue the final degree certificate of a B.Tech in Civil Engineering to the petitioner. This is necessarily subject to the outcome of the scrutiny enquiry by the 4th respondent Scrutiny Committee;
- (d) Further, respondent No. 5, the MPSC, is directed to call the petitioner for personal interview (if so qualified) and to consider his claim for appointment or employment in Maharashtra Civil Engineering Services 2018 from the Scheduled Tribe category on production of his caste certificate and subject to the outcome of the caste validity certificate claim pending before the 4th respondent Scrutiny Committee;

13. It is finally made clear that should the petitioner fail to obtain the caste validity certificate, and his caste certificate is, consequentially, cancelled, revoked and confiscated or forfeited, all benefits from the caste certificate including the education degree, employment and monetary benefits will be lost to him and he will not be entitled to claim any equities on the basis that he has obtained the employment or on the basis of this order.

14. The writ petition is disposed of in these terms. There will be no order as to costs.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)