

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

WRIT PETITION NO.980 OF 2019

Shaikh Abdul Aslam Shaikh Abdul Rasheed	..Petitioner
Versus	
Joint Commissioner (P & V) and another	..Respondents

Mr. Mahesh Deshmukh, Advocate for the Petitioner.

Mrs. Anjali N. Helekar a/w Mr. P. J. Khosla, Advocate for Respondent No.1.

Mr. Y. S. Khochare, AGP for Respondent No.2.

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ.
DATE : 8th FEBRUARY, 2019**

P.C.

1] The Petitioner has approached this Court being aggrieved by the order passed by the Respondent No.2 – Scrutiny Committee dated 19th April 2018, thereby rejecting the claim of the Petitioner of belonging to “Bhaina” Scheduled Tribe.

2] The claim is rejected on the ground that the Petitioner originally belongs to State of Tamil Nadu and tribe “Bhaina” is not notified for the State of Tamil Nadu.

3] Mr. Mahesh Deshmukh, learned counsel appearing on

behalf of the Petitioner submits that since the Petitioner is in the employment of Central Government and since “Bhaina” is the caste notified as Scheduled Tribe in the State of Maharashtra and since at the time of issuance of Caste Certificate to the Petitioner as resident of Maharashtra, he is very much entitled to the benefits of Scheduled Tribe.

4] We find that the submission is without any substance. The Apex Court in the case of **Action Committee on Issues & Anr Vs. Union of India & Anr**¹ has clearly held that the Tribe/Caste is notified in relation to a State. As such, unless the caste to which the Petitioner claims to belong is notified as Scheduled Tribe/Schedule Caste in the State of origin, merely because the said Tribe/Caste is notified in the State to which he has migrated cannot be a ground to hold that such a person belongs to Scheduled Tribe. Such a finding would be totally contrary to the judgment of the Hon'ble Apex. Apart from that it is to be noted that from the order of Respondent No.2 – Scrutiny Committee, it appears that it has also doubt with regard to genuineness of the Caste Certificate issued in favour of the Petitioner by the competent authority. No doubt that Mr. Mahesh

1 (1994) 5 SCC 244.

Deshmukh submits that said adverse finding was not put to the notice of the Petitioner and therefore he did not have an opportunity to meet the said finding.

5] However, we find that since in view of the judgment of the Hon'ble Apex Court, the Petitioner cannot be held to be entitled to the Scheduled Tribe. As such, it would not be appropriate for us to interfere with the impugned order. The Writ Petition is therefore rejected.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]