

Prashant Annanji Thakur	...	Petitioner
versus		
State of Maharashtra and Ors.	...	Respondents

Mr.Chintamani K. Bhangoji i/b
Mr.R.K.Mendadkar for the Petitioner.

**CORAM :- S. C. DHARMADHIKARI &
R.I.CHAGLA, JJ.**

P.C. :-

Page 1 of 4

“That this Hon’ble Court be pleased to issue a writ of mandamus and or any other writ, order or direction in the nature of mandamus directing the Respondent No.4 to not to withheld salary of the petitioner in terms of the communication dated 10.6.2014. The petitioner also seeks directions to the Respondent No.2 Committee to decide the case of the petitioner for grant of caste validity certificate”.

2. The petition has been filed on 19th June, 2014. There is no affidavit in reply.

3. When the petition was moved before a Division Bench of this Court, on hearing both sides, it was persuaded to pass the following order on 18th December, 2014.

“Private notice to Respondent No.5 is permitted.

2 Considering the facts and circumstances and also for the reason that the Petitioner’s caste claim is pending before the Caste Scrutiny Committee, at this stage, we are inclined to grant ad-interim relief in terms of prayer (c).

3 Stand over to 22nd June, 2015.”

4. Unfortunately, the scrutiny is not complete and the order has continued. Either way, it is detrimental to the larger public interest.

5. Mr.Samant has oral instructions to argue that the Committee completed the verification and scrutiny and made an order. That order remained in its file. It could not be communicated to the petitioner.

6. This is a Scrutiny Committee set up at Nandurbar.

7. We cannot accept this argument made by Mr.Samant and for more than one reasons. As far as back in the year 1963, in the decision reported in the case of *Bachhittar Singh Vs. State of Punjab and another*¹, the Hon'ble Supreme Court had held that no order, which remains in the file and uncommunicated to the affected party, can be said to a valid and authenticated order or an order complying with all the relevant provisions. There are two conditions which have to be fulfilled. That, an order has to be made in accordance with the law and if the law requires the communication of that order, there must be proof of such communication. The later requirement is absent in this case. Hence, we cannot hold that the uncommunicated order in the file is an order, which binds the petitioner.

8. We proceed on the footing that the scrutiny and verification is incomplete. The Committee will now pass a fresh order after hearing the petitioner and according to 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, 2001 and the rules framed thereunder.

1 AIR 1963 SC 395

9. While passing the fresh order, the Committee should not borrow or rely upon any finding, observation and conclusion in the order which it has rendered and which is in its file. That order being relied upon would visit the Committee members with serious legal consequences.

10. We clarify that we have not expressed any opinion on the rival contentions, but we continue the protection granted on 18th December, 2014 until the Committee passes the final order and communicates the same to the petitioner. The order should not be acted upon, if adverse, for a period of two weeks from the date of communication.

11. The writ petition stands disposed of accordingly. No costs.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)