

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6391 OF 2014

Dilip Shrawan Thakur .. Petitioner
Versus
The State of Maharashtra & ors .. Respondents

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Mr.C.K. Bhangoji I/b R.K. Mendadkar for the Petitioner.

Ms.Rupali Shinde, AGP for the Respondent-State.

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**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 4th JUNE 2019

P.C:-

1. Being aggrieved by the order dated 09.05.2012 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nasik, the petitioner has approached this Court. The Petitioner submitted that the certificate is issued by the Executive Magistrate, Nandgaon, District-Nashik of Scrutiny Committee. The Committee recorded a finding that the Executive Magistrate, Nandgaon has not issued a caste certificate in the proper format prescribed by the Government of Maharashtra in its Resolution dated 24.06.1987. As far as the territorial jurisdiction is concerned, the Committee has observed that the Executive Magistrate, Nandgaon, District-Nashik was not competent to issue the certificate without verifying the place of

residence of the applicant's family at the time of notification i.e. on 06.09.1950, that is his ordinary/permanent resident place of applicant. The Scrutiny Committee thus concluded that the applicant has not obtained the caste certificate from Competent Authority in proper format and resultantly, the said certificate issued by the Executive Magistrate, Nandgaon, District-Nashik bearing No.MAG/SR/770/1987 dated 10.07.1987 was held to be invalid and it is directed to be cancelled and confiscated. Liberty was given to the petitioner to obtain caste certificate from the Competent Authority in proper format and to be submitted to the Committee for verification.

2. Mr.Bhangoji, learned counsel for the petitioner submits that the power of the Committee to confiscate the certificate and refusal to verify the same on the ground that the authority issuing the certificate did not have territorial jurisdiction to issue the certificate is no more *res integra* and a Division Bench of this Court in case of *Niraj Kamlakar More & Ors. Vs. Scheduled Tribe Certificate Scrutiny Committee and Ors reported in 2012(6) BCR 221* in paragraph No.12 has categorically disapproved of such an approach of the Committee. He would place reliance on paragraph

No.12 of the said judgment which read thus :-

12. Thus, a caste certificate issued by the competent authority cannot be said to be invalid or nullity only on the ground that the competent authority did not have territorial jurisdiction. Thus, it follows that in the facts of these cases, the caste certificates issued by the competent authority cannot be said to be invalid. The Scrutinee Committee cannot refuse to exercise its power on the ground that the caste certificate produced before it for validation was issued by the competent authority having no territorial jurisdiction to issue the same. When a caste certificate issued by the competent authority is not invalid within meaning of sub-section (2) of Section 4 of the said Act, the Scrutiny Committee cannot refuse to exercise its jurisdiction of adjudication or verification of caste claim. In cases in hand, the only finding of the Scrutinee Committee is that the competent authority which issued caste certificate had no territorial jurisdiction to issue the certificate. Therefore, we hold that the caste certificates are not invalid and the Caste Scrutiny Committee was duty bound to make adjudication on the respective caste claims of the petitioners.

3. In light of the aforesaid settled position, we have not hesitation in quashing the impugned order passed by the Scrutiny Committee as and the Committee could not have refused to verify the said certificate produced by the petitioner and could not have directed him to approach the Competent Authority for obtaining a fresh certificate. In light of the above referred decision of this Court, we quash and set aside the impugned order passed by the Committee on 09.05.2012. We direct the Scrutiny Committee,

Nashik adjudicate the claim of the petitioner based on the certificate dated 10.07.1987 issued by the Executive Magistrate, Nandgaon, District-Nashik on its own merit. Since the claim is pending before the committee for a long period of time, we direct the committee to scrutinize the said claim within a period of one year. In the meantime the respondent No.3, the employer of the petitioner is restrained from taking any coercive step against the petitioner based on the impugned order passed by the Caste Scrutiny Committee. With the aforesaid direction, the Writ Petition stands allowed.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)