

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.321 OF 2011

M/s. Dattani Constructions & Anr.

.... Petitioners

versus

State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Bhavin Gada a/w Vasim Shaikh and Mujtaba Rizvi i/b. Pravin Mehta & Mithi & Co., Advocate for Petitioners.
- Mr.A.L. Patki, AGP a/w Mr.S.B. Gore, AGP for Respondent Nos.1 and 2.
- Mr.Aseem Naphade i/b. V.K. Damle a/w K.S. Dubey, Advocate for Respondent Nos.10 to 12.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE : 17th DECEMBER, 2019.

P.C. :

1. Pursuant to the praecipe filed by the learned Counsel for Respondent Nos.10 to 12, the matter is taken on production board.
2. Heard learned Counsel for the parties.

3. Learned Counsel Mr.Aseem Naphade for Respondent Nos.10 to 12 submits that in view of subsequent development Respondent Nos.10 to 12 may be permitted to file additional affidavit dated 15/10/2019. Advocate appearing on behalf of Petitioner has no objection for the same. Respondent Nos.10 to 12 entered into witness box. They admitted the execution and contents of the additional affidavit. Hence same is permitted and same is taken on record.

4. Learned Counsel Mr.Bhavin Gada appearing on behalf of Petitioners submits that in view of the additional affidavit filed by Respondent Nos.10 to 12, particularly in paragraph Nos.2, 3 and 4 in the said affidavit, the Petition can be allowed in terms of prayer clause (b) and (c).

5. Paragraph Nos.2, 3 and 4 read thus;

“2. We say that our Caste Certificates are validated by the said Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane, mainly on the Validity Certificate issued to Bhupesh

Kashiram Wange, the Respondent No.3 in Writ Petition No.733 of 2010 (M/s Dattani Construction & Anr.) Versus State of Maharashtra & Ors) in respect of which the said Bhupesh Kashiram Wange is restrained not to act upon the said Validity Caste Certificate, by this Honourable High Court. As validity to the caste claim was granted on the basis of the Affinity test only, the claim in the light of the recent guidelines of the Honourable High Court and the Supreme Court does not sustain. Bhupesh Kashiram Wange has already filed affidavit that he does not want to defend his claim. We further state that we do not have any documents to support our claim.

3. *We further say that in the light of various judgments passed by this Hon'ble High Court as well as our Hon'ble Supreme Court, no useful purpose would be served by contesting the above Petition.*
4. *We say that looking to the overall facts and circumstances of the case we have no objection in setting aside the order passed by the Scrutiny*

Committee, Konkan Division, Thane by making the rule absolute in terms of prayer (b) and (c) of the above Petition.”

6. Considering the submissions made by learned Counsel for the Petitioner and the additional affidavit dated 15/10/2019 filed by Respondent Nos.10 to 12, we are satisfied that the Petition can be allowed in terms of prayer clause (b) and (c). Hence following order:

(A) Writ Petition is allowed in terms of prayer clause (b) and (c) which read thus;

“(b) That this Hon’ble Court be pleased to issue Writ of Certiorari or writ in the nature of Certiorari or any other writ, order and direction calling upon the records and proceedings in the case Nos.DD/TCSC/Misc/Mumbai/12/10 & No.DD/TCSC/Misc/Mumbai/101/10& (4) DD/TCSC/Education/Mumbai-/2891/09 and after going through the case be pleased to

quash and set aside the impugned orders both dated 29th September 2010 passed by Respondent No.5 and further be pleased to declare that the validity Caste Certificate issued to Respondent Nos.10 and 11 are inoperative and non est, null and void.

(c) that this Hon'ble Court be pleased to issue a writ of mandamus or in the nature of mandamus or any other appropriate writ order or direction restraining Respondent No.5 from proceeding with the case of Respondent No.12 i.e. Case No.DD/TCSC/Education/Mumbai/2894/09."

- (B) No order as to costs.
- (C) Writ Petition is disposed of accordingly.
- (D) Rule is made absolute accordingly.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)