

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

WRIT PETITION NO.733 OF 2010

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 No.3.

**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 No.3, the matter is taken on production board.
2. Heard learned Counsel for the parties.
3. Learned Counsel Mr.Aseem Naphade for Respondent

No.3 submits that in view of subsequent development Respondent No.3 may be permitted to file additional affidavit dated 15/10/2019. Advocate appearing on behalf of Petitioner has no objection for the same. Hence same is permitted and same is taken on record.

4. Learned Counsel Mr.Aseem Naphade appearing on behalf of Respondent No.3 submits that Respondent No.3 Bhupesh Kashiram Wange, is present in the Court. He entered into witness box. He admits the contents of affidavit and effect of the same.

5. Learned Counsel Mr.Bhavin Gada appearing on behalf of Petitioners submits, that in view of the additional affidavit filed by Respondent No.3, 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). He further submits that Respondent No.3 himself has stated in paragraph No.4 that the Petition can be allowed in terms of prayer clause (b) and (c).

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

“2. *I say that our Caste Certificate is validated by the said Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane, mainly on the Validity Certificate issued to Respondent Nos.3, 4, 5 and 6 in Writ Petition No.1925 of 2008 (M/s Dattani Construction & Anr. Versus State of Maharashtra & Ors) in respect of which the said Respondents Nos.3, 4, 5 and 6 are 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. Respondents Nos.3, 4, 5 and 6 have already filed affidavit that they do not want to defend their claim. I further state that I do not have any documents to support my claim.*

3. *I 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. *I 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.”*

7. Considering the submissions made by learned Counsel for the Petitioner and the additional affidavit dated 15/10/2019 filed by Respondent Nos.3, we are satisfied that the Petition can be allowed in terms of prayer clause (b) and (c).

8. 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 and or any other writ, Order or direction in the nature of Certiorari thereby quashing and setting aside the impugned order dated 31st March 2009 passed by Respondent No.2 Committee bearing Case No.DD/TCSC/MISC/THANE/1, Validating the Caste Certificate of Respondent No.3 herein.

(c) That this Hon’ble Court be pleased to hold and declare that the validity Caste Certificate issued to the Respondent No.3 is inoperative and non est.”

(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.)