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

WRIT PETITION NO.3070 OF 2014

Mr. Rajarm Sahadev Pal

..Petitioner

Vs

State of Maharashtra & Ors.

..Respondents

Mr. C.K. Bhangoji for the Petitioner.

Mr. H.S. Venegaonkar, A.G.P for Respondent Nos.1 to 3.

**CORAM : A.A. SAYED &
A.S.GADKARI, J.J.**

DATE : 15 January 2019.

P.C.:

1] The Appeal preferred by the Petitioner has been rejected by the Respondent No.3-Divisional Caste Certificate Scrutiny Committee, Mumbai Suburban, by the impugned Order dated 30 January 2014. The Appeal has been rejected on the ground that, though the Competent Authority passed the Order on 30 August 2013, the Appellant has filed the Appeal on 17 October, 2014 and therefore the said Appeal was beyond the period of limitation of 30 days.

2] Learned Counsel appearing for the Petitioner pointed out that the Order dated 30 August 2013 of the Competent Authority was received

by the Petitioner only on 19 September 2013. He therefore submitted that, the said Appeal was within time and not time barred.

3] The learned A.G.P. for Respondent Nos.1 to 3 submits that, the said Order dated 30 August 2013 was communicated to the Petitioner by regular post and therefore he is not in a position to dispute the averment of the Petitioner that he had received the Order dated 30 August 2013 only on 19 September 2013.

4] Section 5 of 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 Rules 2000 (hereinafter referred to as the Act) reads as under:-

“5 (1) Any person aggrieved by an Order of rejection of application passed by the Competent Authority under sub-section (1) of section 4 may, within 30 days from the date of receipt of order, appeal to the Appellate Authority specified the Government by notification in the Official Gazette.

(2) The Appellate Authority may within a period of three months, after giving the appellant an opportunity of being heard and after

satisfying itself about the genuineness or otherwise of the claim of the appellant either confirm the rejection the rejection order, or set aside the order of the Competent Authority and direct the Competent Authority to issue the caste certificate.”

Rule 7(1) of said Caste Certificate Rules, 2012 reads reads as under:

“7(1) If the application for grant of Caste Certificate is rejected by the Competent Authority, the applicant may prefer an appeal in FORM-11 against the order of rejection to the respective Appellate Authority within a period of 30 days from the date of the rejection of order”

(emphasis supplied)

5] Thus, under the said Act, the time for preferring Appeal is 30 days from the date of receipt of order and under the Rules, it is 30 days from the date of the rejection of order.

6] It is well settled that the provisions of the Act vis-a-vis the Rules would prevail. In the present case, in absence of any dispute as regards the receipt of the Order dated 30 August 2013 by the Petitioner on 19-09-2013, the Appeal preferred by the Petitioner on 17-10-2013 would be within time.

Hence, we pass the following Order:-

ORDER

- (a) The impugned Order dated 30 January 2014 is set aside.
- (b) Respondent No.3 Committee shall entertain the Appeal of the Petitioner and decide the same in accordance with law.

7] The Writ Petition to stand disposed of in the aforesaid terms.

(A.S.GADKARI, J.)

(A.A. SAYED, J.)