

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6011 OF 2017
WITH
CIVIL APPLICATION NO. 4578 OF 2020
IN
WRIT PETITION NO. 6011 OF 2017

Prasad Rajenna Jangilwad
Age: 32 years, Occu.: Service,
R/o Ratnali, Tq. Dharmabad,
Dist. Nanded

..PETITIONER/APPLICANT

VERSUS

1. State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32
Through its Secretary
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Through its Member Secretary
3. Executive Magistrate Biloli,
Tq. Dharmabad, Dist. Nanded
4. Sub Divisional Officer, Dharmabad
Dist. Nanded
5. The Commissioner of Police,
Pune City, Dist. Pune
6. The Commissioner of Police,
Pimpri Chinchwad City,
Dist. Pimpri Chinchwad

..RESPONDENTS

....
Mr. V.U. Jadhav, Advocate for petitioner/applicant
Mrs. G.L. Deshpande, A.G.P. for respondents
....

**CORAM : SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.
DATED : 04th SEPTEMBER, 2020**

ORAL ORDER (PER : R.G. AVACHAT, J.) :

Learned Counsel for the petitioner/applicant seeks leave to add The Commissioner of Police, Pimpri Chinchwad City as party respondent to both the petition and application. Leave granted.

2. Heard.

3. Rule. Rule made returnable forthwith. With consent of the parties, both the writ petition and civil application are taken up for final disposal at the admission stage itself.

4. The challenge in the writ petition is to the decision of Respondent No.2 – Scheduled Tribe Certificate Scrutiny Committee, Aurangabad dated 27th October, 2016 whereby it canceled and confiscated scheduled tribe certificate of the petitioner. The petitioner/applicant is a member of Maharashtra Constabulary. He joined the service as Constable in 2009. The petitioner claims to have belonged to ‘Mannervarlu’, scheduled tribe. Respondent No.3 had issued the petitioner scheduled tribe certificate to that effect.

5. Tribe certificate of the petitioner was referred on 23rd August, 2013 to Respondent No.2 – committee for scrutiny. The committee, by the impugned order, canceled and confiscated the tribe certificate of the petitioner on the technical ground that there is a spelling mistake in the certificate. The committee, however gave the petitioner liberty to obtain a new tribe certificate from the concerned competent authority and resubmit the proposal for its scrutiny.

6. Division Bench of this Court by its order dated 13th September, 2017 passed in Writ Petition No. 11189 of 2017 (*Narayan Shekanna Annamwar Vs. State of Maharashtra and Others*) by relying on the judgment in Writ Petition No. 6263 of 2017 (*Kirankumar Prakash Tarodekar Vs. State of Maharashtra and Others*) and connected matters, in the similar facts and circumstances of the case, was pleased to direct the scrutiny committee to return the original tribe certificate produced by the petitioner. The petitioner was directed to furnish an undertaking to the scrutiny committee that he would approach the concerned competent authority for rectification of the spelling mistake occurred in recording name of the tribe and shall produce corrected certificate within a period of eight weeks from the date of receipt of the original certificate.

7. In view of the aforesaid directions and the facts of the present case being identical with those of Writ Petition No. 6263 of 2017, this writ petition

deserve to be allowed in terms of similar order.

8. Pending the writ petition, Respondent No.6 - employer, by its order dated 20th July, 2020 has placed the petitioner on a supernumerary post for a period of eleven months on account of his failure to submit his verified tribe certificate. It appears that the authorities concerned were oblivious of the ad-interim order passed by this Court on 02nd May, 2017 in Writ Petition No. 6011 of 2017 directing not to take any coercive action against the petitioner. Moreover, the petitioner had not been given an opportunity of hearing before passing the impugned order dated 20th July, 2020. Civil application preferred by the petitioner for setting aside the said order, therefore needs to be allowed.

9. Both the writ petition and civil application are therefore allowed in terms of following order :-

The scrutiny committee is directed to return the original tribe certificate produced by the petitioner before it, within four weeks from today. The petitioner shall tender an undertaking to the scrutiny committee that he would approach the concerned competent authority for rectification of the spelling mistake occurred in recording name of the tribe and shall produce corrected certificate within a period of eight weeks from the date of receipt of the original certificate. The petitioner shall approach the Sub Divisional Officer, Dharmabad for recording corrections in the certificate already issued

to him. The Sub Divisional Officer, Dharmabad shall issue corrected certificate within a period of four weeks from the date of approach of the petitioner, without embarking upon further enquiry in the matter. On receipt of corrected certificate, same shall be produced before the Scrutiny Committee within a period of four weeks from the date of its receipt. The scrutiny committee shall thereafter proceed to decide the claim of the petitioner for validation of the tribe certificate and render decision on the proposal within a period of one year from the date of receipt of corrected certificate together with the proposal. It would be open for the petitioner to tender the corrected certificate and the proposal directly to the scrutiny committee and the scrutiny committee shall entertain the same.

10. Orders impugned in the writ petition and civil application stand quashed and set aside. Rule is made absolute accordingly in above terms. There shall be no order as to costs.

11. In the meanwhile, no coercive action be taken against the petitioner merely on the ground of invalidation of tribe certificate on technical ground.

(R.G. AVACHAT, J.)

SSD

(SUNIL P. DESHMUKH, J.)