

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10198 OF 2017

Balaji Sudam Kamble

..PETITIONER

VERSUS

Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Member Secretary and Others

..RESPONDENTS

....

Mr. S.S. Phatale, Advocate for petitioner
Mr. S.P. Sonpawle, A.G.P. for respondent - State

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**CORAM : P.B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 22nd JANUARY, 2020**

PER COURT :

Heard learned Counsel for the petitioner.

2. By inviting our attention to order dated 16th August, 2017, learned Counsel for the petitioner submitted that notice was issued to the respondents, returnable on 31st August, 2017. Though the respondents are duly served, there is no response from any of the respondents including Respondent No.4 – Institute of Engineering and Technology, wherein the petitioner was admitted.

3. Mr. Phatale, learned Counsel for the petitioner submitted that way back in the year 2010, precisely on 22nd July, 2010, a caste certificate was issued in favour of the petitioner through Sub-Divisional Officer, Ambajogai

stating that the petitioner belongs to “Koli Mahadev” scheduled tribe category. It is also the submission of learned Counsel that the said certificate was issued on the basis of sufficient material in the form of temporary evidence including the validity certificates issued in favour of the near relatives of the petitioner. Learned Counsel then submitted that this is the second occasion for the petitioner to approach this Court. On an earlier decision of the committee, whereby the claim was rejected, the petitioner filed writ petition in this Court and on considering the ground of failure to follow the principles of natural justice, the petitioner was relegated before the Scrutiny Committee by order dated 08th January, 2015 in Writ Petition No. 157 of 2015.

4. Mr. Phatale, by inviting our attention to the order of Scrutiny Committee submitted that in the second exercise, the Scrutiny Committee turned down the claim of the petitioner only on the ground that the petitioner is permanent resident of village Rui (Dhoki), Tq. and Dist. Osmanabad on the date of notification dated 06th September, 1950 and this place does not fall within the jurisdiction of Sub-Divisional Officer, Ambajogai, Dist. Beed. As such, the Sub-Divisional Officer, Ambajogai was not the competent authority to issue caste certificate to the petitioner. Mr. Phatale then submitted that while canceling the caste certificate issued in favour of the petitioner, the committee granted liberty to the petitioner to obtain the caste certificate in an appropriate manner and to submit the same to the appropriate Scrutiny Committee. It is

then submitted that the Scrutiny Committee has specifically observed that cancellation of the certificate is without affecting the merit of the tribe claim of the petitioner.

5. Learned Counsel for the petitioner then submitted that the petitioner completed his engineering course in 2017 itself and such statement is made in the petition at paragraph no.8. Learned Counsel then submitted that in view of the Scrutiny Committee's order, Respondent No.4 – Institute is neither issuing certificate of marks nor handing over degree certificate to the petitioner. As the petitioner is not possessing these requisite documents, the petitioner, even though completed his engineering course, is unable to proceed his studies for higher education and this prohibition, for no fault of the petitioner, is causing a serious prejudice to the petitioner is the submission of learned Counsel for the petitioner.

6. Mr. Phatale, learned Counsel for the petitioner then submitted that in the series of petitions, this Court has taken a consistent view, whereby the petitioners are permitted to approach the competent Sub-Divisional Officer so as to obtain fresh certificates and these certificates so issued is again subject to scrutiny by the competent scrutiny committee. Mr. Phatale then prayed for issuance of directions to Respondent No.2 – Sub-Divisional Officer, Osmanabad to issue caste certificate in favour of the petitioner. The petitioner then further

prayed for submission of the caste certificate issued by the Sub-Divisional Officer, Osmanabad to the competent scrutiny committee i.e. Scheduled Tribe Certificates Scrutiny Committee, Aurangabad for validation.

7. Learned Counsel for the petitioner further prayed for issuance of directions to Respondent No.4 to issue original statement of marks and also to hand over the degree certificate so as to facilitate the petitioner to seek admission for higher studies. Mr. Phatale then submitted that the petitioner will claim the admission for higher course as a candidate belonging to open category and the petitioner is ready to submit an undertaking to this Court within four days that the petitioner will not claim any benefit either in academic course or otherwise on the basis of the certificate issued by Respondent No.2, which would be subjected to the scrutiny by the competent scrutiny committee.

8. Learned A.G.P. appearing for Respondent Nos. 1, 2 and 3 has no serious objection for the exercise undertaken by the petitioner as submitted before the Court.

9. We find considerable merit in submission of Mr. Phatale, learned Counsel for the petitioner and the exercise as referred to above is not causing any prejudice either to Respondent Nos. 1, 2 and 3 and as Respondent No.4,

who is served with the notice and inspite of notice being duly served, Respondent No.4 chosen not to appear before this Court personally or through any counsel.

10. Writ petition is partly allowed. The petitioner is permitted to approach Respondent No.2 – Sub-Divisional Officer, Osmanabad alongwith all the necessary documents including the copy of the caste certificate dated 22nd July, 2010, which was subsequently canceled by the Scrutiny Committee within two weeks. Sub-Divisional Officer, Osmanabad, thereafter within two weeks to verify the documents and may also verify the other record and on his satisfaction issue caste certificate to the petitioner. On receipt of such certificate, the petitioner to submit the same to Respondent No.1 – Scrutiny Committee for validation. On receipt of the caste certificate, Respondent No.1 to decide the claim of the petitioner as expeditiously as possible. Respondent No.4 is directed to issue the certificate of marks as well as degree certificate to the petitioner within two weeks from today. The petitioner to file an undertaking to this Court within two weeks from today that the petitioner will not claim any benefits either in pursuing his academic course or otherwise as a candidate belonging to Scheduled Tribe category till the scrutiny committee decides the claim of the petitioner.

(R.G. AVACHAT, J.)

(P.B. VARALE, J.)

SSD