

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9645 OF 2019

Ruchali P. Shinde .. Petitioner.
v/s.
State of Maharashtra & Others .. Respondents.

Mr. R. K. Mendadkar, for the Petitioner.
Mr. S. H. Kankal, AGP for the Respondent-State.

**CORAM: NITIN JAMDAR &
ABHAY AHUJA, JJ.**
DATE : 22nd JULY, 2020.
(THROUGH VIDEO CONFERENCING)

PC:-

Heard the learned Counsel for the parties.

2 By this Petition, Petitioner who is a student having been granted admission in Shri Chatrapati Shahuphule Ambedkar College of Agriculture, Beed, has challenged the legality, validity and propriety of the conditional Caste Validity Certificate dated 10th August, 2018. For the sake of conveniences, the said certificate is reproduced as under:-

*“Certificate of Validity
Case No.3/522/Edu/012018/116954 Date 10 August 2018*

After considering the documents and associated facts, it is certified that Shri/Smt./Kum/ RUCHALI PARAG SHINDE belongs to the Thakkar (44), Scheduled Tribe. Therefore, his/her Scheduled Tribe Certificate bearing No.SDO/18/2008 dated 27 August 2008 issued by Collector/Sub Divisional Officer/ Deputy Collector/ Executive Magistrate Sub Divisional Officer Karjat Sub Division Karjat District Ahmednagar is held VALID by Scrutiny Committee.

Conditional Validity-

This Validity is given as per interim order of CVC Nashik dated 10/8/18 and is considered equal to regular Validity for a period of 2 years or any Final Order whichever is earlier.”

3 From the above, it is clear that the said condition has been imposed pursuant to interim order of the CVC, Nashik dated 10th August, 2018. The Advocate for the Petitioner points out that in a similar case, after having perused Rule 12 (7) and Rule 12(9)(a) of the Maharashtra Scheduled Tribe Certificate (Regulation of Issuance and Verification) Rules, 2003 (the said ‘Rules’), this Court has held that such a condition is without authority and has directed the deletion of the condition.

4 Having perused the order dated 13th August, 2018 in Writ Petition No.9075 of 2018 in the case of Aniket S.Shinde v/s. State of Maharashtra & Others, we are of the view that the facts in this case are similar to the case at hand. The relevant passages read thus:-

“1 The petitioner’s complaint in this writ petition is that a certificate of validity has been issued to the petitioner. That certificate reads as under:-

CERTIFICATE OF VALIDITY

Case No.3/522/Edu/102017/114063 Date 09 Aug. 2018

After considering the documents and associated facts, it is certified that Shri/Smt/Kum ANIKET SUBHASH SHINDE, belongs to the Thakar (44), Scheduled Tribe. Therefore, his/her Scheduled Tribe Certificate bearing No. SDO/89/2010 dated 12 Oct 2010 issued by Collector/ Sub Divisional Officer/ deputy Collector/ Executive Magistrate SUB DIVISIONAL OFFICER PARNER DIVISION PARNER District Ahmednagar is held VALID by Scrutiny Committee.
Conditional Validity-

This validity as per interim order of CVC Nashik dated 9/8/18 and is considered equal to regular validity for a period of 2 years or any Final Order whichever is earlier.”

2 We have perused Rule 12(7) and Rule 12(9) sub-clause (a) of the Maharashtra Scheduled Tribes (Issuance and Verification of Caste Certificate) Rules, 2003. We do not find any power conferred by these rules or its sub-rules in the Committee to issue such a conditional certificate of validity. Further, there is no procedure known to these rules and the substantive law by which the Committee is empowered to pass an interim order. It is clear that this conditional validity has been issued as per interim order of Central Vigilance Commissioner Nashik dated 9th August, 2018.

3 We do not see how any authority and other than the Competent Authority as also the Scrutiny Committee envisaged by Maharashtra Act No.23 of 2001 can direct the Scrutiny Committee to issue such a conditional certificate of validity. If at all any such direction is issued, it is the plain duty of the Scheduled Tribe Scrutiny Committee to ignore it.

4 We, therefore, delete the condition as is enumerated in this certificate. The deleted portion will read as under:-

This validity as per interim order of CVC Nashik dated 9/8/18 and is considered equal to regular validity for a period of 2 years or any Final Order whichever is earlier.”

5 By this order, the certificate of validity having been issued, the proceedings before the Scrutiny Committee stands concluded. Now, the Committee will issue a fresh certificate of validity in the prescribed format i.e. “FORM G”.

5 Rule 12(7) and Rule 12(9)(a) of the said Rules,, do not confer any power to the Respondent No.2 to issue such a conditional certificate of validity except as prescribed in Form-G.

6 We, accordingly, direct the deletion of the condition enumerated in the certificate. The deleted portion will read as under:-

Conditional Validity-

This Validity is given as per interim order of CVC Nashik dated 10/8/18 and is considered equal to regular Validity for a period of 2 years or any Final Order whichever is earlier.”

7 The Respondent No.2- Scrutiny Committee is accordingly directed to issue a fresh certificate of caste validity in the prescribed format i.e. Form-G.

8 Writ Petition is allowed in the above terms. No order as to costs.

9 This order will be digitally signed by the Private Secretary of this Court. Sheristedar of this Court is permitted to forward the Petitioner copy of this order by e-mail. All concerned to act on digitally signed copy of this order.

(ABHAY AHUJA,J.)

(NITIN JAMDAR,J.)