

(1)

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

919 WRIT PETITION NO.8332 OF 2021

JAGDISH SHANKARRAO KADAM
VERSUS
UNION OF INDIA, THR. THE SECRETARY AND OTHERS

...

Mr S. C. Yeramwar, Advocate for petitioner;
Mr D. G. Nagode, Standing Counsel for respondent No.1 (absent)
Mr S. B. Pulkundwar, A.G.P. for respondent No.2;
Mr A. P. Bhandari, Advocate for respondent No.3

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 28th September, 2021

PER COURT:

1. On 04/08/2021, while issuing notice, this Court had observed as under :

“ . Mr Phatale, learned counsel for the petitioner submits that the petitioner is behind the bars since the year 2018. He is not granted bail. The offence is under Section 420 of the Indian Penal code. The letter of intent is issued to the petitioner on 06.02.2014. The learned counsel submits that as the petitioner is behind the bars since the year 2018, the petitioner could not prosecute the matter before the scrutiny committee. The learned counsel submits that the petitioner would authorize his brother to prosecute on his behalf.

(2)

2. Mr Nagode, learned counsel waives notice for respondent No. 1. The learned A.G.P. accepts notice for respondent No. 2.

3. Notice to respondent No. 3, returnable on 01.09.2021. Humdast allowed.

4. The learned A.G.P. shall also get the record by the next date.

2. We have heard the learned Counsel for the respective sides. There is no dispute that in the proceedings pertaining to the adjudication of the social status of the petitioner, who claims to be belonging to “Thakur” scheduled tribe, there was no opportunity of hearing to the petitioner since he has been behind bars from 2018 onwards. The impugned order dated 16/06/2021, disposing of the proposal of the petitioner, is purely on account of his absence.

3. Mr Bhandari, the learned Advocate appearing on behalf of the Petroleum Company raises a serious grievance that this petitioner, before he was charged for having committed offences punishable under Sections 420 and 406 of the Indian Penal Code, was selected for an allotment of a Retail Outlet and was granted

(3)

Letter of Intent. Had he been charged with the offence before grant of the Letter of Intent, he would have been disqualified under the Rules. Technically, since he is charged with offences, he would be disqualified, even today before announcing the final decision on allotment of the Retail Outlet. This Court has delivered an order on 13/08/2021 in Writ Petition No.5379/2014, filed by this very petitioner, directing the Caste Scrutiny Committee to decide his caste claim on or before 28/02/2022. It was not disclosed to this Court that on 16/06/2021, the caste claim of the petitioner was already disposed off.

4. In our dated 13/08/2021, passed in Writ Petition No.5379/2014, we have observed in paragraph No.4 as under :

“4. In view of the above, we are disposing off this petition with the following directions :-

- a) Respondent no.3 competent committee shall decide the pending tribe claim of the petitioner as expeditiously as possible and preferably on or before 28th February, 2022.*
- b) The committee shall not seek extension of time.*
- c) The petitioner shall whole-heartedly co-operate, failing which the committee is at liberty to approach this Court by filing a Civil Application for seeking*

(4)

further directions.

d) The ad interim protection granted to the petitioner would continue till 28th February, 2022 or till the tribe claim is decided, whichever is earlier.”

5. The learned Advocate for the petitioner submits that his real brother, namely, Laxman Shankarrao Kadam would himself participate in the proceedings before the Committee. No stand would be taken subsequently that the petitioner personally did not participate in the proceedings or that he is not bound by the acts, omissions and commissions of Laxman Shankarrao Kadam. The learned Advocate for the petitioner submits that he has issued an authorization in favour of Laxman and he would conduct the proceedings on his behalf and the petitioner would not raise any defence that he disassociates himself with Laxman.

6. In view of the above, this petition is partly allowed. The impugned order dated 16/06/2021 is quashed and set aside and the proceedings are remitted to the office of respondent No.2. The brother of the petitioner - Laxman, shall appear before respondent No.2 on 11/10/2021 at 12.00 noon with a proper authorisation and thereafter, would abide by the dates of hearing and the stages, as

(5)

may be posted by the Committee. As set out in the order dated 13/08/2021, the Committee shall decide the claim on or before 28/02/2022 and the ad interim relief granted in Writ Petition No.5379/2014 would operate till 28/02/2022 or till the claim is decided, whichever is earlier, as directed earlier.

7. In the event the brother of the petitioner, namely, Laxman, does not remain present as is directed and causes hindrance to the Committee by non-cooperation, the Committee is at liberty to file a civil application before this Court for seeking appropriate orders.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

sjk