

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3616 OF 2020

Karan M. Bahure

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. C. K. Bhangoji a/w Tanaji Jadhav for the Petitioner.

Mr. Rajan S. Pawar, AGP for the Respondent Nos. 1 to 3.

**CORAM: R. D. DHANUKA AND
V. G. BISHT, JJ.**

DATE : 15th FEBRUARY, 2021.

P.C. :-

1. Rule.

2. Mr. Pawar, learned Counsel waives service for the respondents.

3. By consent of parties this petition is heard finally at the admission stage.

4. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the Judgment and Order dated 22nd October, 2019 passed by the respondent no.2-committee thereby invalidating the Caste Validity Certificate dated 12th July, 2010 issued by the respondent no.3.

5. The short question arises for consideration of this Court in this Writ Petition is that if hearing has not been rendered to the petitioner

by three members of the Committee and only by two members, whether the order of invalidating the caste validity certificate would be valid or not ?

6. Learned Counsel for the petitioner invited our attention to some of the Roznama annexed to this petition and would submit that the hearing was conducted by not all the three members of the committee but was rendered by only two members. Learned Counsel invited our attention to the Rule 18 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, 2012 (hereinafter referred to as 'the said Rules' for short) and would submit that though the said provisions mandates that the Scrutiny Committee of the three members shall be present at the hearing of the Scrutiny Committee, the hearing was not granted by the three members of the Committee but only by two members. The learned Counsel for the petitioner placed reliance on the judgment of this Court in case of ***Vijay Kisan Karanjkar v/s. State of Maharashtra and Ors., 2003(4) ALL MR 691*** and more particularly paragraph 20 in support of this submission.

7. Mr. Pawar, learned AGP could not dispute that the hearing was granted only by the two members of the Committee and not by all the three members as it was mandatory as per Rules 18 of the said Rules 2012.

8. In our view, under Rule 18 of the said Rules 2012, three

members were required to render hearing to the applicant before it and not by less than three members. The said provision is mandatory and not directory.

9. This Court in case of ***Vijay Kisan Karanjkar*** (supra) has held that when there were three members and the order was passed by all the three members, all of them ought to have afforded hearing to the petitioner. This Court was pleased to set aside the impugned order passed by the three members, when the hearing was rendered by two members. The principles of law laid down by this Court in case of ***Vijay Kisan Karanjkar*** (supra) squarely applies to the facts of this case. We are respectfully bound by the said judgment.

10. We therefore pass the following order :-

- (a) Impugned order dated 22nd October, 2019 passed by the respondent no.2-Committee is quashed and set aside. The proceedings filed by the petitioner for validating the Caste Certificate is restored to file before the respondent no.2-Committee.
- (b) The respondent no.2-Committee shall render hearing to the petitioner and shall pass a fresh order in accordance with law without being influenced with the observation made and conclusion drawn in the impugned order dated 22nd October, 2019 expeditiously and not later than four months from the date of communication of this order.
- (c) Rule is made absolute in aforesaid terms. There shall be no order as to costs.
- (d) The parties to act on the copy of this order authenticated by the Sheristedar of this Court.

[V. G. BISHT, J.]

[R. D. DHANUKA, J.]