

Issuance and Verification of Caste Certificate Act, 2000 and Rules of 2003, ('the said Rules, 2003') within a stipulated period and shall decide the Petitioners claim on merits.

2 The case of the Petitioners is that Petitioner No.1 is ordinary resident of Village Tamloor, Taluka Degloor, District Nanded. The Petitioner No.1 is in the employment of Maharashtra State Government and has been residing at Mumbai along with other family members, since 2008. On 02.01.2019, the Petitioner No.1 had made an application on behalf of Petitioner Nos.2 and 3 to the Respondent No.3 for Caste Certificate in terms of Sub Rule 2 of Rule 5 of the said Rules, 2003. The Respondent No.3 however, rejected the said application on 11.03.2019. The Petitioners preferred an Appeal against the said order before Respondent No.2. By an order dated 26.06.2019, the Respondent No.2 was pleased to set aside the said decision passed by Respondent No.3 and directed Respondent No.3 to issue Caste Certificate in favour of the Petitioner Nos.2 and 3. The Respondent No.3 thereafter issued a certificate dated 18.07.2019 in favour of the Petitioner Nos.2 and 3.

3 The Petitioner No.1 thereafter made an application on 24.09.2019 to the Respondent No.2 for verification of Tribe Certificate

of the Petitioner Nos.2 and 3. The Respondent No.2 Committee vide an order dated 28.01.2019 without going into the merit of the matter, cancelled and confiscated the said certificate on the ground that the said certificate was not in prescribed format of Form 'C'. The Committee however, granted liberty to the Petitioner No.1 to apply for fresh certificate. Respondent No.3 thereafter issued Caste Certificate dated 06.01.2021 in favour of the Petitioner Nos.2 and 3. On the said certificate also Respondent No.3 committed the same error and in paragraph No.2 of the said certificate recorded the address of the Petitioners as ordinary resides at Mumbai.

4 Petitioner No.1 on behalf of Petitioner Nos.2 and 3 applied for verification of the said Caste Certificate in the month of April, 2021. The Respondent No.2- Committee however refused to accept the said application for verification vide order dated 26.07.2021 on the ground that the said certificate has not been issued in Form 'C' in terms of Rule 5 Sub Rule 2 of the said Rules, 2003. It is the case of the Petitioners that Petitioner No.2 has applied for CET Maharashtra State on 01.07.2021 against a seat meant for candidate belonging to Scheduled Tribe category. The Petitioner No.2 applied for NET (UG) 2021 in the month of August, 2021, against the seat

earmarked for candidate belonging to Scheduled Tribe category. However, since there is an error in the paragraph 2 of the certificate issued by Respondent No.3, the Petitioner No.2 is likely to face difficulties in appearing for NET as well as CET.

5 The learned Counsel for the Petitioners invited our attention to the various documents annexed to the Petition and also to Rule 5 (2) of the said Rules, 2003 and submits that in the case of persons born after the first Presidential Order dated 06.09.1950, the place of ordinary residence for the purpose of acquiring Scheduled Tribes status, shall be the place of permanent abode of their father, grandfather at the time of the notification of the Presidential Order for Scheduled Tribes. It is submitted by the learned Counsel that the Petitioner No.1 who is father of the Petitioner Nos.2 and 3 has migrated to Mumbai from Nanded prior to 1995 and since he has been residing at Mumbai. Though under the said Rule 5(2) of the Rules, 2003 the address of the Petitioner No.2 in the second paragraph was required to be mentioned as of 'Village Tamloor, Taluka Degloor, District Nanded' Respondent No.3 once again mentioned the ordinary place of residence of the Petitioner No.2 of Mumbai.

6 The learned A.G.P. tendered affidavit-in-reply filed on behalf of Respondent No.3 and would submit that according to the Respondent No.3 as per note of Form 'C' written at the foot note of the prescribed format 'Ordinarily resides' used here will have the same meaning as in Section 20 of the representation of People Act 1950. It is contended by Respondent No.3 that as per Section 20 of the Act, a person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns or is in possession of a dwelling house resident on any date in the constituency in which, but for is having such service, he would ordinary residence on the date.

7 In our view the reliance placed by Respondent No.3 on Section 20 of the representation of the People Act 1950 and applying the said provision to the certificate in Form 'C' under Rule 5(2) of the Rules, 2003 is totally without application of mind and is perverse. In our view, the impugned certificate insofar as the residence of the Petitioner No.2 mentioned as Flat No.504, Building No.M4B, Pratiksha Nagar, Sion, Mumbai- 400 022, District Mumbai City of the State of Maharashtra, is contrary to the fact that the Petitioner No.1 is ordinarily resident of Nanded and not Mumbai.

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We accordingly pass the following order :

- i) Respondent No.3 is directed to carry out corrections in the second part of the Caste Certificate issued in Form 'C' dated 08.01.2021 by mentioning ordinary place of residence of the Petitioner Nos.2 and 3 at Village Tamloor, Taluka Degloor, District Nanded, within 48 hours from the date of communication of this order.
- ii) On the basis of corrections to be carried out by the Respondent No.3 in Form 'C' Caste Certificate, Respondent No.2 shall decide the caste validity claim of the Petitioner Nos.2 and 3 within four weeks thereafter.
- iii) Writ Petition is allowed in aforesaid terms.
- iv) Parties to act on the authenticated copy of this order.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)