

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

WRIT PETITION NO. 1704 OF 2022

Shalik Vamanrao Jagdale,
Age : 56 Years, Occu. : Service,
Presently residing at
Plot No. 6, Near Shani Mandir
Chowk, Amrutdham Panchavati,
Tq. and Dist. Nashik.

.. Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar,
through its Member Secretary.
2. Sub Divisional Officer,
Division, Dhule, Dist. Dhule.
3. Union of India
through Secretary,
Defence Ministry of India.
4. The Deputy General Manager,
Human Resource Department,
Hindusthan Aeronautics Ltd.,
Aircraft Division,
(Government of India Undertaking)
Ozar township Nashik,
Dist. Nashik.

.. Respondents

Shri Mahesh S. Deshmukh, Advocate for the Petitioner.
Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 and 2.
Shri A. G. Talhar, A.S.G. for Respondent Nos. 3 and 4.

**CORAM : R. D. DHANUKA AND
S. G. MEHARE, JJ.
DATE : 22ND MARCH, 2022.**

ORAL JUDGMENT (Per R. D. Dhanuka, J.) :-

. Rule. The learned Assistant Government Pleader waives service for respondent Nos. 1 and 2. Mr. Talhar, the learned counsel waives service for the respondent Nos. 3 and 4. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 05th July, 2014 and order dated 24th December, 2021 passed by the Caste Scrutiny Committee, Nandurbar thereby rejecting the application filed by the petitioner on the ground that the petitioner has withdrawn his claim from the Scrutiny Committee.

3. Mr. Deshmukh, the learned counsel for the petitioner invited our attention to the contentions raised in the petition and more particularly by relying on para No. 12 and Ground No. III and would submit that the petitioner got confused and instead of seeking time to get fresh tribe certificate in Form – C from the Sub Divisional Officer, Dhule, the petitioner submitted written application thereby seeking return of his proposal along with original tribe certificate. There was no intention on the part of the petitioner to avoid verification of his tribe claim. He submits that, the petitioner has good case on merits. Since the petitioner was not armed with any person conversant with the provisions of law, the petitioner could not understand the consequence of the application made by the petitioner and the scrutiny committee

rejecting the claim made by the petitioner.

4. Affidavit in reply is not filed by respondents to the averments made in the petition.

5. A perusal of the impugned order indicate that application is rejected only on the ground that the petitioner had applied in writing for withdrawal of his claim and not on merits.

6. We are inclined to accept the explanation given by the petitioner in the petition that said application for withdrawal of claim was made on ground of bonafide mistake.

7. The impugned order 24.12.2021 passed by the Scrutiny Committee is accordingly quashed and set aside.

8. We have made it clear that the petitioner will first apply for correction of caste certificate granted by the Sub Divisional Officer, Dhule within a period of one week from today. Upon making an application by the petitioner for correction of caste certificate, the respondent No. 2 shall correct the said caste certificate and issue corrected certificate in favour of the petitioner within a period of two (02) weeks from the date of petitioner applying for correction of caste certificate. After the caste certificate is corrected and issued to the petitioner by the S. D. O., the petitioner in that event would be entitled to apply for validation of caste certificate before the Scrutiny Committee. The Scrutiny Committee in that event shall decide and dispose of

the said proposal for caste validity within a period of eight (08) weeks from the date of submission of corrected caste certificate along with proposal by the petitioner. The Scrutiny Committee shall decide the caste claim of the petitioner on its own merits and in accordance with law.

9. In view of the fact that, the impugned order passed the caste scrutiny committee is set aside with further directions to consider caste claim of the petitioner on its own merits, we also quash and set aside the impugned order dated 27.01.2022 passed by the respondent No. 4 thereby terminating the services of the petitioner. The services of the petitioner shall be restored with immediate effect, which shall be subject to the outcome of the order that would be passed by the Scrutiny Committee.

10. Mr. Deshmukh, the learned counsel for the petitioner states that, his client would not claim for backwages from the date of termination till his reinstatement in service. Statement is accepted.

11. The writ petition is disposed of. Rule is made absolute in above terms. No order as to costs.

12. The parties to act on authenticate copy of this judgment.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]