

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

WRIT PETITION NO. 2728 OF 2022

Sushil Tulshidas Garud

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri R. K. Mendadkar, Advocate h/f Shri Sagar S. Phatale,
Advocate for the Petitioner.

Shri A. R. Kale, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : R. D. DHANUKA AND
S. G. MEHARE, JJ.**

DATE : 24TH MARCH, 2022.

FINAL ORDER :

. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for writ of certiorari for quashing and setting aside the impugned order dated 24.01.2022 passed by the respondent No. 2-Committee. The petitioner also seeks declaration that the respondent No. 2 has no power of review and that the caste certificate dated 10th November, 2022 and caste validity certificate dated 22nd February, 2011 are legal, valid and subsisting on date.

2. The caste scrutiny committee issued a show cause notice dated 03rd December, 2021 to the petitioner as to why caste validity certificate issued in favour of the petitioner should not be cancelled. In pursuance to the said show cause notice, the

petitioner raised various objections and also filed application raising a preliminary issue with regard to maintainability to show cause notice dated 03rd December, 2021.

3. Perusal of the impugned order passed by the caste scrutiny committee indicates that though the issue of jurisdiction was raised by the petitioner as a preliminary issue in the impugned order the Scrutiny Committee has not considered the said issue raised by the petitioner.

4. In our view, the petitioner has made out a case to quash and set aside the impugned order on the ground that the caste scrutiny committee has not considered the issue of jurisdiction and the maintainability of the show cause notice issued by the respondent No. 2/Committee.

5. We accordingly pass the following order.

6. Order dated 24.01.2022 passed by the respondent No. 2-Committee is quashed and set aside. The show cause notice issued by the respondent No. 2 is restored to file before the respondent No. 2 for deciding show cause notice afresh in accordance with law. The respondent No. 2 shall decide the issue of maintainability of the show cause notice as well as issue of jurisdiction raised by the petitioner and if the respondent No. 2 is of the view that the respondent No. 2 has jurisdiction to issue such show cause notice, shall decide the matter on its own

merits, in accordance with law without being influenced by the observations made and conclusions drawn in the impugned order. The scrutiny committee shall pass an order within a period of eight (08) weeks from the date of communication of this order and shall communicate the order that would be passed to the petitioner.

7. The writ petition is disposed of in aforesaid terms. No order as to costs.

8. In so far as the prayer clause (C) of the petition is concerned, the petitioner would be at liberty to apply for employment on the ground that the Maharashtra Public Service Commission has made recommendation to the respondents. If any such application is made by the petitioner, the same shall be considered by the respondent No. 3 on its own merits and in accordance with law. In that event all contentions of both the parties on merits of the matter are kept open.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]

bsb/March 22