

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

WRIT PETITION NO.12624 OF 2022

Satish s/o Baliram Jadhav,
Age : 36, Occ : Service,
R/o Ghusardi, Tq.Pachora,
Dist.Jalgaon.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through it's Secretary.
2. Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar.
Through it's Member Secretary.
3. The Sub Divisional Officer,
Pachora, Dist.Jalgaon.
4. The Assistant Commissioner of
Police (Administration),
Police Commissioner Office,
Aurangabad.
5. The Deputy Commissioner of Police,
(Head Office), Aurangabad,
Tq. & Dist. Aurangabad.

...RESPONDENTS

...
Advocate for the Petitioner : Shri Vivekanand U. Jadhav
AGP for the Respondents/State : Shri P.S. Patil
...

CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.

DATE :- 15th December, 2022

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner has put forth prayer clauses A, B and C as under:-

“(A) *Issue Writ of Certiorari or any other appropriate Writ or order in the like nature thereby quash and set aside impugned order passed by Respondent No.2-Scrutiny Committee dated 18.04.2022.*

(B) *Issue an order of injunction thereby restrain the Respondent No.4 and 5 or anybody on their behalf from taking any coercive action against petitioner solely on the basis of impugned Order passed by Respondent No.2-Scrutiny Committee (dt.18.04.2022) and or on the basis of non submission of Tribe certificate or Certificate of validity, till the final disposal of his claim, by final disposal of this petition.*

(C) *To direct the respondent no.3 to issue Tribe Certificate of ‘Tokre Koli’ Scheduled Tribe within stipulated period to the petitioner.”*

3. We have considered the strenuous submissions of the learned advocates for the respective sides. Taking into

account what has emerged from the records, we need to record our serious displeasure for the manner, in which the Scrutiny Committees in the State of Maharashtra are functioning. Following sequence of events is self explanatory :-

(a) The petitioner claims to be belonging to the “Tokre Koli”, Scheduled Tribe, category enlisted at Sr.No.29 in the list of the Scheduled Tribes in the State of Maharashtra.

(b) The petitioner received the tribe certificate with the spelling “Tokare Koli” on 22.01.2009.

(c) The petitioner was appointed as a Police Constable on 03.09.2014 and his tribe claim was forwarded by the employer for validation to respondent No.2/Committee, which was received by the Committee on 27.08.2014.

(d) By the impugned order dated 18.04.2022, the Scrutiny Committee has disposed off the proposal of the petitioner by concluding that the spelling in the tribe certificate as “Tokare Koli” is wrong and it should be “Tokre Koli”. Secondly, the certificate is not issued in Format-C and hence, the case of the petitioner is closed.

4. This is not the first case that has come before this

Court. In Writ Petition No.6263/2017 (*Kirankumar S/o Prakash Tarodekar vs. The State of Maharashtra and others*), this Court has delivered the judgment dated 20.06.2017 dealing with a similar situation and the following observations and directions were issued :-

“17. *It is noticed that in certain cases, the tribe certificates are issued by the Executive Magistrates and in accordance with rules, the Sub Divisional Officers have been now authorized to issue certificates. In such cases, the concerned Sub Divisional Officer, exercising the jurisdiction over the area, shall issue the corrected tribe certificate, on receipt of an application by the individual petitioner, together with original tribe certificate issued by the Executive Magistrates. The corrected certificate shall be issued as above within a period of four weeks from the date of receipt of the application/s, without embarking upon any fresh enquiry.*

On receipt of the corrected tribe certificate, the concerned petitioner shall submit the same to the scrutiny committee forthwith. The scrutiny committee shall proceed to decide the matter and take decision on the proposal in respect of verification of the tribe certificates, on merits and in accordance with law, as expeditiously as possible and preferably within a period of one year from the date of receipt of the corrected certificate from each of the petitioners. The scrutiny committee, hence forth, shall not reject the verification claims merely on the ground of occurrence of spelling mistake in recording the name of the tribe and shall proceed to decide the claim of an individual as belonging to a particular tribe

on merits. In such circumstances, the scrutiny committee shall direct petitioners to produce corrected tribe certificate and shall issue necessary directions for recording corrections to the competent authority by keeping the proposals pending.”

5. What shocks our judicial conscience is that the authorities of the State Government, who are termed as competent authorities like the Sub Divisional Officer are unaware of the spelling of the correct tribe or caste. A blunder is committed by the Sub Divisional Officer by writing the wrong spelling of the tribe or the caste in the certificate. Agonies of the petitioner are further aggravated by the Scrutiny Committee, which does not raise any objection on the certificate when the entire proposal is scrutinized after it's submission and it is only when the petitioner reaches the penultimate stage that the Scrutiny Committee refrains from passing an order and concludes that the tribe certificate has a spelling mistake or that the certificate is not in format C and thereby, closes the proceedings. It further directs that a new proposal be once again submitted.

6. Considering the above, this Writ Petition is partly

allowed. The impugned order dated 18.04.2022 is quashed and set aside and the proceeding No.CVC/NDB/SERV/1614/C.R.464/D-2(2), stands remitted to respondent No.2/Committee at Nandurbar.

7. Respondent No.2 shall handover the original tribe certificate to the petitioner on or before 23.12.2022. The petitioner would then tender the said certificate to respondent No.3 and also fill in an online application for seeking format-C certificate. Respondent No.3 shall thereafter, issue a fresh accurate certificate in format-C on or before 06.01.2023.

8. The petitioner would himself collect the said document from respondent No.3 on 06.01.2023 and deposit the said certificate with respondent No.2/Committee on 10.01.2023. The Scrutiny Committee shall proceed with the said case on the basis of the said certificate from the stage at which the impugned order was passed and deliver a final order in the petitioner's case, on or before 28.02.2023.

9. In view of the above, the service of the petitioner would be protected until the decision is delivered by the Scrutiny Committee. The petitioner shall render fullest cooperation to the

committee for the expeditious disposal of the proceedings and shall refrain from seeking adjournments on unreasonable or trivial grounds, lest the committee would be justified in progressing to the next stage in the proceeding.

10. Taking into account the above circumstances, we are constrained to issue the following directions to the Commissioner, Tribal Research and Training Institute, Pune, (TRTI), who is the head of all the Scheduled Tribe Certificate Scrutiny Committees and to the Commissioner, Dr.Babasaheb Ambedkar Research and Training Institute, Pune, (BARTI), who is the head of all the Scheduled Caste Certificate Scrutiny Committees, in the State of Maharashtra :-

(a) After the proposal reaches the office of the Scrutiny Committee, an accurate entry be made in the inward register mentioning the date and time of receipt of the proposal.

(b) While causing the scrutiny of the proposal that has been received, the Scrutiny Committee shall prepare the scrutiny sheet/check list and list out all objections in the proposal, which would include the spelling mistake in the tribe or caste certificate or the requirement of the certificate in a particular format or of

any nature or even with regard to the documents that have been filed.

(c) The applicant's email address or employer's email address and their cell phone numbers should be recorded and all objections should be communicated by email and whatsapp, to the applicant/employer, who has forwarded the proposal, within FIFTEEN DAYS.

(d) An opportunity to remove the objections within a period of 45 days, shall be normally granted to the candidate, save and except in cases involving grave urgency.

(e) After the deficiencies are removed and the file is accepted by the Scrutiny Committee for verification, no further objection with regard to the tribe or caste certificate or it's format or spelling of tribe or caste, etc., should be raised by the Scrutiny Committee.

(f) Henceforth, if any such order is noticed by us vide which, the proposal is disposed off only on such technical grounds and the candidate is directed to resubmit a fresh proposal, we would be imposing heavy costs on the members of the Scrutiny Committee for having indulged in dereliction of duties in not scrutinizing the proposals properly at the time of

receiving them and raising such objections after a period of five years or 10 years when the candidate is handed down a final order.

(g) We direct (a) the Principal Secretary, Tribal Development Department, State of Maharashtra, Mantralaya, Mumbai, (b) the Principal Secretary, Social Justice and Special Assistance Department, State of Maharashtra, Mantralaya, Mumbai, (c) the Commissioner, Tribal Research and Training Institute, Pune, (TRTI) and (d) the Commissioner, Dr.Babasaheb Ambedkar Research and Training Institute, Pune, (BARTI), to issue standing instructions in this regard to all the Scrutiny Committees in the State of Maharashtra, which are empowered to conduct such scrutiny for the purpose of grant of validity certificates under 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 Act, 2000.

11. We direct the learned Registrar (Judicial) of this Court to place this order before the Chief Secretary of the State

of Maharashtra, the Principal Secretary, Tribal Development Department, the Principal Secretary, Social Justice and Special Assistance Department, the Principal Secretary, Law and Judiciary Department, State of Maharashtra, the Commissioner, TRTI and the Commissioner, BARTI, for perusal and necessary action. We expect these authorities to issue appropriate directions to all the Scrutiny Committees within their jurisdiction to ensure that the directions set out in this order are strictly complied with.

12. These authorities would be at liberty to direct the Scrutiny Committees to make assessment as regards such orders having been passed and recall such orders by issuing notices to the applicants. Thereafter, the original certificates be returned to the applicants so as to be got corrected and to be produced in the same pending proceedings for adjudication, which shall not be disposed off on technical grounds.

13. Rule is made absolute accordingly.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)