

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

WRIT PETITION NO.10736 OF 2022

Hanumantrao Raghunath Thakur .. Petitioner

v/s.

Scheduled Tribe Certificate

Scrutiny Committee through

its Member Secretary

.. Respondent

Mr. Shailendra Gangakhedkar a/w Ms. Garima Joshi i/b. Mahesh S. Deshmukh for the petitioner.

Mrs. Ashwini A. Purav, AGP, for the State.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 16TH SEPTEMBER, 2022.

P.C. :

1. Leave to amend is granted to correct the date of impugned order as 20th September, 2021. Amendment shall be carried out forthwith. Amendment shall also be carried out in the copy supplied to the respondent's Advocate.
2. Rule. Learned AGP waives service for respondents. Rule is made returnable forthwith.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the exparte order dated 20th September, 2021 passed by the respondent Committee canceling the Tribe Certificate of the petitioner being “Thakur” Schedule Tribe and seeks a direction against the respondent to decide the Tribe claim of the petitioner within the stipulated period.
4. The learned counsel for the petitioner states that in this case the tribe certificate was issued to the petitioner on 16th April, 1999 by the Competent Authority i.e. Deputy Collector, Nashik, prior to Maharashtra Act no.23 of 2021 came into effect and the Rules of 2003 which came into effect on 4th June, 2003. He tenders copy of the judgment delivered by this Court on 4th April, 2022 in *Writ Petition no.1542 of 2022 in case of Umesh Pralhad Lokhande v/s. State of Maharashtra & Ors.*, and submits that the issue raised in this petition is concluded by the said judgment in this Court.
5. The learned AGP could not distinguish the said judgment dated 4th April, 2022 in case of Umesh Prahlad Lokhande (supra).
6. Admittedly, in this case the Competent Authority had issued Tribe

Certificate on 16th April, 1999. On the said date, the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification) of Certificate Rules, 2003 were not in force. It is only under Rules 2003, separate forms are provided. The Scrutiny Committee thus could not have invalidated the Tribe claim of the petitioner on the ground that the Tribe certificate was not in proper Form 'C'. The same was issued much prior to the said Rules of 2003 came in force.

7. In our view, the judgment of this Court in case of the State of Maharashtra (*supra*) ought to have been applied to the facts of this case. We do not propose to form any different view in the matter. We accordingly pass the following order:-

- (i) Impugned order dated 20th September, 2021 passed by respondent Court is quashed and set aside.
- (ii) Proceedings filed by the petitioner for validating the Tribe claim is restored to file before the respondent committee.
- (iii) The respondent Committee shall decide the Tribe claim on its own merits and in accordance with law after granting personal hearing to the petitioner. The petitioner is directed to appear before the respondent Committee on 30th

September, 2022 at 11.00 a.m. without fail.

- (iv) The respondent Committee shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the impugned order dated 20th September, 2021.
- (v) The Committee shall make an endeavour to dispose of the tribe claim made by the petitioner within three months from the date of petitioner appearing before the Committee. The order that would be passed by the Committee shall be communicated to the petitioner within one week from the date of passing order. If the petitioner is aggrieved by the said order, the petitioner would be at liberty to file the proceedings permissible in law.
- (vi) Rule is made absolute in the aforesaid terms.
- (vii) No orders as to costs.
- (viii) Parties to act upon the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)