

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 7004 / 2023

Rameshwar s/o Sambhaji Bhiknure,
Age 31 years, Occu. Service,
R/o. Chaundi, Post Kodali,
Tq. Udgir, Dist. Latur.

...Petitioner

Versus

1. The State of Maharashtra,
Through the Principal Secretary,
Social Development Department,
Mantralaya, Mumbai 400 032.
2. District Caste Certificate,
Scrutiny Committee, Latur,
Dist. Latur.
Through its Member Secretary.
3. The Deputy Director of Health
Services (Transport),
Pune.
4. The District Civil Surgeon,
District Hospital, Barshi Road,
Beed, Tq. & Dist. Beed.

...Respondents

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Mr. Manoj Shinde, Advocate for the Petitioner
Mr. A. S. Shinde, AGP for Respondents/State

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 26 JUNE, 2023.

ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard the learned Counsel for petitioner and learned AGP for State. With their consent, the matter is heard finally.

1. The petitioner is challenging the judgment and order dated 18.04.2023 passed by the respondent no.2/Scrutiny Committee, invalidating his claim of caste (Other Backward Caste) i.e. KUMBHAR. The petitioner has secured a job with the respondent no.4 on 04.05.2021 as skilled artizen. His caste certificate was referred to the Scrutiny Committee. The same was invalidated by the impugned judgment and order.

2. The petitioner had submitted an application under Section 3 of the Maharashtra Scheduled Caste, 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 (hereinafter referred to as Act for the sake of brevity), seeking issuance of caste certificate. Necessary documents were also submitted by him. The Sub-Divisional Officer, Udgir conducted an enquiry as contemplated by Section 3 of the Act read with Rule 4 of the Rules. Being satisfied by the material produced by the

petitioner, a caste certificate was issued in his favour on 05.08.2008.

3. It is not a case of the petitioner that his application, seeking issuance of caste certificate has been rejected by the Competent Authority and he was required to prefer appeal under Section 5 of the Act to the respondent no.2/Scrutiny Committee. In the impugned judgment and order, there is a reference to Section 5(2) of the Act, which is misplaced and therefore the factual aspect is clarified.

4. The caste claim of the petitioner was invalidated mainly on the ground that the revenue record of great-grandfather of the petitioner 'Naga' was held to be not reliable. There is a difference in middle name of Naga in the 7/12 extract and original record. It was further held that the petitioner and his ancestors were found to be ordinary residents of Village Tagyal, Tq. Mukhed, Dist. Nanded. The petitioner and his forefathers were not resident of area, which was falling within jurisdiction of the Competent Authority i.e. Sub-Divisional Magistrate, Udgir. Therefore the caste certificate should have been issued by the Competent Authority having jurisdiction over permanent place

of residence of the petitioner and his forefathers i.e. Village Tagyal, Tq. Mukhed, Dist. Nanded.

5. The learned Counsel for the petitioner contended that the Scrutiny Committee committed error of jurisdiction in invalidating the caste claim. The Committee was not hearing appellate proceeding under Section 5 (2) of the Act. The reasons assigned are unsustainable.

6. The learned Counsel for the petitioner relied upon the revenue record, which is at Exhibit-E. The said evidence was not produced before the Scrutiny Committee. It pertains to great-grandfather of the petitioner Bapurao having been in possession of the land situated at Chaudi, Tq. Udgir. Therefore according to him, the caste certificate was properly issued by the Competent Authority at Udgir.

7. Per contra, the learned AGP supported the reasoning assigned by the Scrutiny Committee. According to him, the Scrutiny Committee was justified in considering the competence of the Authority and its powers pertaining to the territorial jurisdiction. The entry of the revenue record was unreliable.

8. There is no provision in the relevant statute or the rules restricting the Scrutiny Committee from examining the caste certificate, which is not issued by the Competent Authority having jurisdiction to issue certificate. The proviso to Rule-14 contemplates the prohibition for the Committee in case of certificate issued to migrant. In the present matter, the Scrutiny Committee failed to exercise the powers vested in it. A hyper technical approach is adopted by the Committee.

9. The reasoning of the Committee is perverse because area restriction was removed and the persons belonging to the Backward Class, migrating from their original place of residence, are also entitled to claim caste benefits.

10. The Scrutiny Committee was not exercising jurisdiction under Section 5(2) of the Act. The said powers can be invoked, when application for caste certificate was rejected by the Competent Authority. In the present case, caste certificate was issued to the petitioner. It was referred for the verification after he secured the job. It is impermissible for the Scrutiny Committee to question

competency of the Authority, who issued caste certificate at this stage of proceeding.

11. The petitioner has produced additional evidence in this Court. We feel that the same needs to be considered by the Scrutiny Committee.

12. Considering over all conspectus of the matter, we are of the opinion that the Scrutiny Committee did not exercise jurisdiction vested in it in correct perspective. We therefore pass following order.

O R D E R

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 18.04.2023 passed by the respondent no.2/Scrutiny Committee Latur, which is at Exhibit-D, is quashed and set aside.
- (iii) The respondent no.2/ Scrutiny Committee, Latur shall reconsider the caste claim of the petitioner afresh by giving due opportunity of hearing.
- (iv) It shall permit additional evidence to be led.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]