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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
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Date: 2023.07.25
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WRIT PETITION NO.1748 OF 2023

Supriya S. Nanaware

...Petitioner

V/s.

State of Maharashtra & Anr.

...Respondents

Mr.R.K. Mendadkar for the Petitioner.

Ms.R.M. Shinde,AGP for Respondent Nos.1 and 2 – State.

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.**

DATE : 24TH JULY, 2023.

P.C. :-

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.
2. We have gone through the impugned order and we are disappointed to note that the impugned order commits the same mistake which was committed earlier by the same Scrutiny Committee. There was an application filed by the Petitioner taking preliminary objection to the show cause notice issued by the Scrutiny Committee and this preliminary objection was mainly on the ground that the Scrutiny Committee had no jurisdiction to re-open the case and review the validity granted about 20 years ago. Since the

preliminary objection went to the root of the matter, it was necessary for the Scrutiny Committee to decide it first. But, that was not to be and therefore, the Petitioner was required to approach this Court in the earlier round of litigation. The Petitioner filed Writ Petition No.11586 of 2022 questioning the approach adopted by the Scrutiny Committee. This Court by an order dated 28th September, 2022 found and agreed itself with the contentions of the Petitioner that important issue of jurisdiction, which goes to the root of the matter was not decided by the Scrutiny Committee and therefore, there was need for remanding the matter back to the Scrutiny Committee, which was indeed done earlier by this Court. But, even after remand of the matter, things have not changed. As stated earlier, the Scrutiny Committee has not considered and decided the objection as to its jurisdiction to re-open the case against the Petitioner.

3. According to the learned counsel for the Petitioner, the Scrutiny Committee does not have any jurisdiction in the matter, as now it is well settled law that there is no legislative scheme in existence, under which any power has been conferred upon the Scrutiny Committee to review and/or revisit its earlier orders and decisions granting caste validity certificates. In this regard, he places reliance upon the observations made by a Co-ordinate Bench of this Court in case of ***Rakesh Bhimashankar Umbarge & Ors. vs. State***

of Maharashtra through its Secretary, Tribal Development Department & Anr. 2023 SCC OnLine Bom 1013. These observations appearing in paragraph 26 of the judgment, for the sake of convenience, are reproduced as under :

“26. Thus, from the scheme of the legislation it is clear that the Caste Scrutiny Committee would not have any jurisdiction to review /revisit its own orders and decisions granting caste validity certificates. This would also be clear from the reading of Section 9. It may also be observed that the legislature is conscious in making available limited powers of the Civil Court to the Competent Authority, Appellate Authority and the Scrutiny Committee, which are specifically enumerated in Section 9. The legislature has consciously avoided to confer the powers of a review as envisaged under Section 114, read with provisions of Order 47 of the Code of Civil Procedure. Once such provision conferring powers of a review are excluded in their application to the Caste Scrutiny Committee, there is no question of such powers being conferred by any implication under any circumstances.”

4. Considering the fact that the Scrutiny Committee has not examined in any manner the question of lack of jurisdiction of the Scrutiny Committee or the Scrutiny Committee having jurisdiction in the matter, it would be necessary that this matter is sent back to the

Scrutiny Committee for deciding the preliminary objection taken by the Petitioner, which would be preliminary objection (a) as appearing in paragraph 1 of the application dated 23rd June, 2022 filed by the Petitioner before the Scrutiny Committee. Accordingly, the Petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the Scrutiny Committee for deciding the preliminary objection as raised in objection (a) vide application of the Petitioner dated 23rd June, 2022, in accordance with law, after giving due opportunity of hearing to the Petitioner.

5. The preliminary objection shall be decided by the Scrutiny Committee at the earliest and in any case within four weeks from the date of appearance of the Petitioner before the Scrutiny Committee. The Petitioner to appear before the Scrutiny Committee on 28th July, 2023 at 11:00 a.m.

6. The Petitioner is at liberty to tender before the Scrutiny Committee the judgments of the superior Courts in support of his contention. All contentions are kept open. Rule is made absolute in above terms. No costs.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)