

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

CRIMINAL WRIT PETITION NO.558 OF 2021

Nurandswami S/o Gurubasayya Hiremath @
Dr. Jaysiddheshwar Shivacharya Mahaswamiji ..Petitioner
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Anoop Patil a/w. Adv. D. Bose, Adv. Puneet B. Fonia for the
Petitioner.
Mr. J. P. Yagnik, APP for the Respondent-State.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ**

DATED : 7th AUGUST, 2023

P.C.:

1. The case of the prosecution is, the Petitioner though belongs to Lingayat Caste, has availed the benefits of Beda Jangam Scheduled Tribe and contested the election. The claim for issuance of validity was negated by the Scrutiny Committee with directions to lodge criminal complaint against the Petitioner.
2. As a sequel of above, the offence being Crime No. 129 of 2020 punishable u/s 420, 467, 468 and 471 of IPC came to be registered against the Petitioner pursuant to the order dated 04/03/2020 passed by the Chief Judicial Magistrate, Solapur based on the complaint preferred u/s. 11 of the Maharashtra Scheduled

Castes, Scheduled Tribe, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificates Act, 2000 (hereinafter called as "Act of 2000")

3. The submissions of learned Counsel for the Petitioner are, the aforesaid offence came to be registered in view of the decision of Scrutiny Committee delivered on 24/02/2020. The Scrutiny Committee has directed the Tahasildar to lodge the complaint against the Petitioner under the provisions of the aforesaid Act of 2000. According to him, the said order of the Scrutiny Committee was the subject matter of the challenge before the Division Bench in WP/3469/2021. This Court by order dated 05/07/2023 has allowed the said Writ Petition thereby remanding back the matter to the Scrutiny Committee for fresh consideration.

4. So as to substantiate the said contentions, learned Counsel for the Petitioner has relied on the observations of the Division Bench of this Court in WP/3469/2021 on 05/07/2023, particularly paragraph nos. 4 to 7 which reads thus:

"4. Thus, it is quite clear that the scrutiny committee has substantially bypassed the mandatory procedure prescribed in the SC and SC Act 2000 and the SC Rules 2012 in passing the impugned order, and, as such has committed a patent illegality in the matter. The

impugned orders, therefore, cannot stand the scrutiny of law and they deserve to be quashed and set aside by allowing this Petition.

5. At this stage, learned counsel for Respondent No.4 also submits that the matter may be remanded back to the scrutiny committee for fresh inquiry in according with law. In view of above, the Petition is allowed.

6. The impugned orders are quashed and set aside.

7. The matter is remanded back to the Scrutiny committee for fresh consideration of complaint made by Respondent Nos.4, 5 and 6, and, decide the same by following the procedure prescribed in law, and, after giving opportunity of hearing to the Petitioner and also to the complainants, for which purpose, the scrutiny committee shall fix dates of hearing and issue appropriate notices to the Petitioner and Respondent Nos.4, 5 and 6, for their appearance before the scrutiny committee. We further direct that the scrutiny committee shall take appropriate decision in accordance with law within a reasonable period of time, preferably within six months from the date of appearance of the parties before it."

5. Based on the above order of the Division Bench, learned Counsel for the Petitioner would urge that the offence which is registered pursuant to the directions of the Scrutiny Committee also needs to be quashed and set aside as the very basis of the registration of the offence viz. the directions of the Scrutiny Committee are set aside.

6. Learned APP submits that the fact remains that the observations of the Scrutiny Committee have led to the

registration of the offence referred above. According to him, even if the order of the Scrutiny Committee is set aside, still the investigating authority has every right to investigate the conduct of the Petitioner of securing a false certificate.

7. He would further urge that in case if again the Scrutiny Committee reaches to a conclusion after offering opportunity of hearing to the Petitioner for securing false caste certificate, investigation has to be continued.

8. We have appreciated the said submissions.

9. Once the fact about the registration of the offence in question, pursuant to the directions of the Scrutiny Committee issued vide order dated 24/02/2020 is not in dispute and the fact that the said order is quashed and set aside by this Court in WP/3469/2021 vide the order dated 05/07/2023. It cannot be said that findings of securing the false caste certificate by the Petitioner can be said to be existed.

10. Once the findings of the Scrutiny Committee as regards securing of false caste certificate by the Petitioner are set aside, the very basis for registration of the offence of securing the false certificate also goes. That being so, the Petition in our opinion deserves to be allowed.

11. As such, the Petition is allowed in terms of the prayer clause (B) and (C).

12. However, in case the Scrutiny Committee pursuant to order of remand passed by this Court on 05/07/2023 in WP/3469/2021 records fresh findings that the Petitioner has secured a false certificate so as to draw benefits based on the false caste certificate and needs to be prosecuted pursuant to the provisions of section 11 of the Act of 2000, the Respondent shall be at liberty to proceed against the Petitioner.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)