

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2787 OF 2022

Anant Atmaram Wagh	...Petitioner
<i>Versus</i>	
The State Of Maharashtra And Ors.	...Respondents

Mr.Vivek V. Salunke, for Petitioner.
Mrs.Neha Bhide, 'B' Panel Counsel for Respondent Nos.1, 2 & 4.
Mr.PD. Dalvi, for Respondent No.3/Original Complainant.

CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.

DATED : 9th FEBRUARY, 2023

P.C. :

1. Rule. Mrs.Bhide, 'B' Panel Counsel waives service for Respondent Nos.1, 2 and 4. Mr.Dalvi, learned counsel waives service for Respondent No.3/Original Complainant. Rule is made returnable forthwith. By consent of the parties, the matter is taken up for final hearing.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner who is elected as a member of village panchayat, is seeking a writ in the nature of Certiorari to quash and set aside order dated 25.01.2022 passed by Respondent No.2 (District Caste Certificate Scrutiny Committee), Raigad.

3. There are various grounds raised for challenging the impugned order, however, learned counsel for the Petitioner has specifically invited our attention to the ground being in the petition, where it is the case of the Petitioner that when he had attended a hearing before the Caste Certificate Scrutiny Committee on 05.01.2021, only two members of the Committee had presided over and conducted the hearing. Thus, according to the Petitioner, three members committee had not assembled heard and decided the validity as required under the law. In support of his contention, the Petitioner has relied upon the judgment of this Court in the matter of **Karan M. Bahure V. State of Maharashtra and Ors.**¹ wherein identical set of facts were considered by this Court and the decision rendered by the Scrutiny Committee without having sufficient number of members, was set aside.

4. We have perused the affidavit in reply filed on behalf of the Respondent-State. In para 16 of the said affidavit dated 08.02.2023 it is stated by the Research Officer, District Caste Scrutiny Committee, Raigad that, the third Committee member also conducted the hearing but since he was having an

1 2021 SCC OnLine Bom 4232

Additional Charge of post of Research Officer & Member Secretary of the Caste Scrutiny Committee, Raigad, he joined the other two members “afterwards”.

5. We inquired with Mr.Dalvi, learned counsel appearing for the Complainant/Respondent No.3 as to what are his instructions about the number of members that were present in the Caste Scrutiny Committee during the hearing of Petitioner’s case. He he expressed his inability to comment anything positively.

6. In view of the stand taken by the Respondent-State which shows that the Caste Scrutiny Committee of three members had not heard the Petitioner’s case and still the impugned order was passed, in our view, the facts of the present case are squarely covered by our judgment in the matter between **Karan M. Bahure V. State of Maharashtra and Ors. (Surpa)**. In the said judgment it is already held that under Rule 18 of the Maharashtra, Schedule Castes and Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, three members are

required to render the hearing while deciding caste validity certificate and not by less than three members. The said provision is mandatory and not directory.

7. In that view that matter, the impugned order cannot be sustained and therefore, we pass following order:

(a) The impugned order dated 25.01.2022 passed by Respondent No.2 is quashed and set aside. The case of the Petitioner's caste certificate validity is restored to the file of Respondent No.2 for consideration in accordance with law. The Caste Certificate Scrutiny Committee is directed to decide the Petitioner's caste certificate validity within three months from 15.02.2023 without being influenced by the observations made in the impugned Order dated 25.01.2022.

(b) The Petitioner and Respondent No.3 are directed to appear before the Respondent No.2 on **15th February, 2023** and no formal notice to the Petitioner and Respondent No.3 is required.

(c) In view of the fact that the impugned Order is set aside, the subsequent action initiated by the Collector, Raigad based on

the impugned Order, cannot be allowed to be continued. In that view of the matter, the Collector, Raigad is directed not to proceed, as per the latest notice dated 11.01.2023 issued to the Petitioner.

(d) If the Order that would be passed by the Caste Certificate Scrutiny Committee is adverse to the Petitioner, no coercive action shall be taken for a period of two weeks from the date of such decision.

8. The writ petition is disposed off and Rule is made absolute in the aforesaid terms. No order as to costs.

9. All concerned to act on an authenticated copy of this order.

(M.M. SATHAYE, J.)

(R.D. DHANUKA, J.)