

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6405 OF 2021

Shri Milind Prakash Baviskar }
age-32 years, occupation: Govt. }
Service }
R/o D-104, Bhatchandra Nagar, }
Chandansar Virar-East, Tal: Vasai, }
District-Palghar } ...Petitioner

V/s.

1. State of Maharashtra }
through Secretary, Tribal Development }
Department, Mantralaya, Mumbai. }
}
2. District Caste Certificate Scrutiny }
Committee, Palghar (through its }
Member Secretary) having its office at }
Konkan Bhavan, 5th floor, Room No. }
524, CBD Belapur, Navi Mumbai, }
District-Thane. }
}
3. The Administrative Officer, }
B.Y.L. Nair Charitable Hospital and }
T.R. Medical College, Dr. A.L. Nair }
Marg, Mumbai Central, Mumbai-400 }
008. } ...Respondents

Mr. Ajinkya J. Jaibhave for petitioner.

Mr. S.L. Babar-AGP for the respondent no.1 an 2.

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

DATE : 10th JULY 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J.)

1. Heard. Rule. Rule made returnable forthwith, by consent of learned counsel for the respective parties.

2. The co-ordinate bench of this Court in *Niraj Kamlakar More v/s. Scheduled Tribe Certificate Scrutiny Committee, Aurangabad*¹ has taken a view that just because the authority which issued a caste certificate had no territorial jurisdiction to issue caste certificate, the caste certificate does not become invalid within the meaning of sub section 2 of section 4 of the Maharashtra Scheduled Castes, 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. The co-ordinate bench has further taken a view that in such a case, the Scrutiny Committee cannot refuse to exercise its jurisdiction of adjudication or verification of caste claim and that it is duty bound to make adjudication on the caste claim of the petitioner. The Division Bench took its view on the premise that unless and until the caste certificate issued by the competent authority having no territorial jurisdiction in the matter, is declared to be invalid by the Court of law

1 212 (4) AIR BOM R 391

or any other competent authority, it remains in operation and therefore, it cannot be refused to be adjudicated upon for its validity or otherwise by the scrutiny committee.

3. The facts of the present case are no different than the facts in the case of *Niraj Kamlakar More* (Supra) and that there is no dispute about it and if that is so, we are of the view that the issue involved in this petition is squarely covered by the view taken by the co-ordinate bench of this Court in the case of *Niraj Kamlakar More* (Supra) and accordingly, we pass the following order:

ORDER

- (i) The petition is allowed and the impugned order dated 30th December 2020 passed by the District Caste Certificate Scrutiny Committee, Palghar is hereby quashed and set aside and the matter is again remanded to the respondent no.2-District Caste Certificate Scrutiny Committee, Palghar for its consideration afresh and rendering its adjudication upon the caste claim of the petitioner, in accordance with law by giving appropriate opportunity of hearing to the petitioner
- (ii) The final order shall be passed by respondent no.2 as expeditiously as possible, preferably within four months from the date of appearance of the petitioner

before the respondent no. 2- District Caste Certificate Scrutiny Committee.

(ii) The petitioner to appear before the respondent no.2 on 24th July 2023 at 11.00 a.m.

(iv) We direct that no coercive action shall be taken against the petitioner till the passing of final order by respondent no.2 and for a further period of two weeks from the date of such order, in case the final order goes against the petitioner.

4. Rule is made absolute in the above terms. No costs.

5. The petition is disposed of in the above terms.

(RAJESH S. PATIL, J)

(SUNIL B. SHUKRE, J)