



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5501 OF 2022

Miss Shalini Hanumant Umate

Age : 29 Yrs., Occ : Service,

R/at : Kajuwadi, Khopoli College Road,

Taluka : Khalapur, Dist. Raigad,

Khopoli – 410 203.

.. Petitioner

Vs.

1. The State of Maharashtra,

Through its Secretary, Ministry of
Social Justice, Mantralaya, Mumbai 32
Represented through the office of
Government Pleader Appellate Side,
High Court, Mumbai.

2. Caste Scrutiny Committee,

Konkan Division, Thane
(Through its Member Secretary)
Having its Office at M.T.N.L.Building,
6th Floor, Near Ganesh Talkies,
Charai, Thane (W),
Thane – 400 601.

3. The Sub-Divisional Officer,

Roha, Dist. Raigad.

4. Maharashtra State Electricity

Transmission Co.Ltd.
Through its Executive Engineer,
AUD, (S.V.S.) Section, Panvel,
Takka Colony, Panvel,
Dist. Raigad – 410 206.

.. Respondents

- Mr. Vishwajeet S. Kapse a/w. Mr. Kunal J. Rane, for the Petitioner.
- Ms. A.A. Purav, AGP for Respondent Nos.1 to 3.
- Mr. Ashok T. Gade a/w. Ms. Riya John & Mr. Navin Rathod, for Respondent No.4.

**CORAM : SUNIL B. SHUKRE &
SANDEEP V. MARNE, JJ**

DATE : 11th SEPTEMBER, 2023

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

1. Rule. Rule made returnable forthwith. By consent of learned counsel for the respective parties heard finally.

2. We find that in the paternal family of the petitioner, there have been in existence at least two validities, one granted to Kisan Narayan Umate, the cousin brother of the petitioner and the other granted to Maruti Narayan Umate, another cousin brother of the petitioner, but the Scrutiny Committee rejected these validities not on the ground that these certificate holders were not blood relatives of the petitioner from the paternal side, but on the ground that these validity certificates have been granted to the said relatives on the basis of some entries which were suppressed by those persons and some information which was falsely given by those persons to the Scrutiny Committee. In other words, this was a case wherein the Scrutiny Committee was of the view that validity certificates issued to the blood relatives of the petitioner were on the basis of suppressing of material facts.

3. Whenever it is found by the Scrutiny Committee that any

validity certificate is obtained by playing fraud upon the Committee or by giving false information in respect of material facts or by suppressing material facts; this Court has consistently held that only in such cases, the Scrutiny Committee shall have the power to revisit the issue of grant of validity certificate to such a person. This Court has also consistently held that the Scrutiny Committee has no power to review its own order. Then, this Court has also prescribed the procedure by which reconsideration and revisiting of the validity certificate granted to a person could be made by the same Scrutiny Committee. This procedure necessarily contemplates giving of sufficient opportunity of hearing to the person whose validity certificate is sought to be reconsidered by the Scrutiny Committee. That means the Scrutiny Committee, in such a case, would be required to issue a show-cause notice to the person who is going to be affected by the action initiated by the Scrutiny Committee. In the present case, the impugned order itself notes that the Scrutiny Committee would be issuing requisite show-cause notices to Kisan Umate and Maruti Umate, cousin brothers of the petitioner to explain as to why the validity certificates granted to them as they belonging to “Dongar Koli” be recalled by the Scrutiny Committee.

4. Learned counsel for the petitioner, on instructions, submits that both these persons have been issued show-cause notices by Thane Scrutiny Committee, but nothing further has happened thereafter thereby suggesting that the validity certificates granted to these persons have not been so far cancelled. When we put a question to the learned AGP about the fate of the show-cause notices issued to said persons, learned AGP submitted that she had no instructions on the subject. So

we presume that the validity certificates granted to Kisan Umate and Maruti Umate have not been cancelled so far.

5. Once it is found that the validity certificate granted to a blood relative of a claimant from the paternal side is in existence and has not been cancelled by the Scrutiny Committee, such validity certificate would stand as a conclusive proof of the social status of that person and would also serve as a reliable and strong piece of evidence for other relatives for the purpose of proving his claim that he belongs to same caste or tribe till the time the validity certificate is not cancelled in accordance with law. At the cost of repetition, we would say it here that the validities in question have not been so far cancelled by Thane Scrutiny Committee. Therefore, Respondent No.2 Scrutiny Committee here was under a duty to apply the settled law to the case of the petitioner while appreciating the important documentary evidence before it which was in the nature of validity certificates granted to Kiran Umate and Maruti Umate. But, Scrutiny Committee straightaway rejected those validity certificates on the ground that those validity certificates were based upon suppression of material facts and were proposed to be recalled by it. Rejection of these validity certificates by the Scrutiny Committee made it look as if the Scrutiny Committee also presumed that these validity certificates did not exist any more, which was a serious error committed by the Scrutiny Committee. In such a case, those validity certificates would constitute good piece of proof for the claim raised by the petitioner that she belongs to “Dongar Koli” Scheduled Tribe, till the time the enquiry initiated upon show-cause notices issued to Kisan Umate and Maruti Umate is concluded.

6. Thus, we find that the entire approach adopted by the Scrutiny

Committee in appreciating the important documentary evidence produced on record by the petitioner was against the settled principles of law and therefore, we find that the impugned order is bad in law, deserving its being quashed and set aside by issuing the following directions:-

- (i) Writ Petition is allowed.
 - (ii) Impugned order dated 02.02.2022 passed by Respondent No.2-Committee is hereby quashed and set aside.
 - (iii) Respondent No.2-Committee is directed to issue tribe validity certificate to the petitioner that she belongs to “Dongar Koli” Scheduled Tribe, subject to the outcome of the proceedings initiated on the basis of show-cause notices issued to Kisan Umate and Maruti Umate within a period of six weeks from the receipt of writ of this Court.
 - (iv) We direct Respondent No.4 to act upon the validity certificate granted to the petitioner in terms of the order of this Court within the parameters of law.
7. Rule is made absolute in the above terms.
8. Writ Petition is disposed of.

[SANDEEP V. MARNE, J.]

[SUNIL B. SHUKRE, J.]