

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4449 OF 2007

Satish Arun Phalke

.... Petitioner

Vs.

The State of Maharashtra & Ors.

.... Respondents

- Mr. R.K. Mendadkar a/w. Ms. Priyanka Shaw, for the Petitioner.
- Ms. M.P. Thakur, AGP, for Respondent No.1-State.
- Mr. Arjun Kalami i/b. Mr. S.R. Nargolkar, for Respondent No.3.
- Mr. Mahesh Rawool i/b. Mr. A.B. Avhad, for Respondent No.4.

CORAM : A. S. CHANDURKAR &
M.W. CHANDWANI, JJ.

DATE : 8TH FEBRUARY, 2023.

P.C. :

1. Considering the short issue involved in this Writ Petition, the Writ Petition is taken up for final hearing.

2. The challenge raised in this Writ Petition is to the Order passed by the Regional Caste Verification Committee, Pune Division, Pune dated 5th August, 2007, thereby invalidating the caste claim of the petitioner of belonging to Kunbi - Other Backward Class. *Inter alia*, it is submitted by

the learned counsel for the petitioner that though the Scrutiny Committee consisted of three Members, the impugned order has not been signed by the Chairman/Secretary thereof. As a result, the order passed under the signatures of two Members cannot be said to be a legal and valid order. In that regard, the learned counsel has placed reliance of the judgment of this Court in *Writ Petition No.4451 of 2007 (Eknath Dada Thorat Vs. State of Maharashtra & Ors.) decided on 7th January, 2023*. It is thus submitted that the impugned order is liable to be set aside on that count.

3. Learned Assistant Government Pleader representing the Scrutiny Committee has opposed the Writ Petition. It is submitted that since the impugned order is signed by majority of the Members of the Scrutiny Committee, the challenge may be considered on merits.

4. On hearing the learned counsel and after perusing the impugned order, it is undisputed that the same has been signed only by two out of three Members. The legal effect of such order has been considered by this Court in *Eknath Dada Thorat (supra)*. It has been held therein that in view of the Government Resolution dated 25th January, 2000, it was mandated that the decision of the Scrutiny Committee ought to have been signed by

all Members. Since the same has not been done, the impugned order is liable to be set aside only on that ground.

5. Accordingly, the following order is passed :-

ORDER

(i) The order passed by the Scrutiny Committee dated 5th August, 2007 is set aside as it has been passed only by two Members out of three.

(ii) The proceedings are remanded to the District Caste Scrutiny Committee, Solapur, for fresh consideration in accordance with law.

(iii) The Scrutiny Committee shall give due opportunity to the petitioner in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

(iv) The petitioner is at liberty to submit additional documents besides those that were initially submitted before the Scrutiny Committee for verification.

(v) The petitioner shall appear before the Scrutiny Committee on 1st March, 2023 to enable the Scrutiny Committee to consider his claim.

(vi) The claim shall be considered and decided within a period of six months from today.

(vii) All points on merits are kept open.

(viii) Writ Petition is allowed in aforesaid terms. Rule is made absolute with no order as to costs.

[M.W. CHANDWANI, J.]

[A. S. CHANDURKAR, J.]