

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8085 OF 2023

Hanumantrao Raghunath Thakur @

Hemant Raghunath Thakur

.. Petitioner

Vs.

Scheduled Tribe Certificate Scrutiny Committee

Nashik and Anr.

.. Respondents

Mr. M.N. Sandhyanshiv, with Mr. Mahesh S. Deshmukh, for the Petitioner.

Mr. S.L. Babar, AGP for Respondent No.1-State.

CORAM : SUNIL B. SHUKRE & RAJESH S. PATIL, JJ

DATE : 12TH JULY, 2023.

P.C. ,

1. By this petition, the petitioner is seeking a mandamus from this court regarding quashing of the complaint filed by respondent no.2 in the ongoing enquiry before the Scrutiny Committee. In fact, the enquiry, which has been initiated by the Scrutiny Committee, is only upon the directions issued by the Coordinate Bench of this court vide it's order dated 16th September 2022 passed in Writ Petition No.10736 of 2022 filed by this very petitioner. In that petition, this petitioner had questioned the order dated 20th September 2021 passed by the Scrutiny Committee, thereby invalidating the tribe certificate issued to the petitioner showing that his tribe was "Thakur" Scheduled Tribe. While quashing the said order dated 20th September 2021, by the order dated 16th September

2022, the Coordinate Bench of this court reasoned out that Scrutiny Committee could not have invalidated the tribe claim of the petitioner on a technical ground that the tribe certificate was not in proper "Form-C", especially when the prescribed "Form-C" itself was not in existence when the tribe certificate was issued in favour of the petitioner. The Coordinate Bench of this court noted the fact that the prescription of "Form-C" was the result of framing of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification) Rules, 2003, in terms of the power conferred under the provisions of Maharashtra Act No.XXIII of 2001. So, this court remanded the matter back to the Scrutiny Committee with a direction that it shall decide the tribe claim of the petitioner on its own merits and in accordance with law, after granting personal hearing to the petitioner. In doing so, this court did not curtail the powers of the Scrutiny Committee to entertain any complaints filed by third persons, if those complaints provided relevant material for effectively deciding the tribe claim of the petitioner.

2. Now the grievance of the petitioner is that the Scrutiny Committee, after remand of the matter to it, could not have entertained the complaint filed by respondent no.2, who was a complete stranger to the claim of the petitioner. It is for this reason that the petitioner has approached this court and sought a direction from this court that the complaint dated 26th December 2022 filed by respondent no.2 be quashed and set aside. We are of the view that such a grievance, in the first place, ought to have been raised before the Scrutiny Committee, which the petitioner has not done so. There is no order passed by

the Scrutiny Committee rejecting the contention of the petitioner that no complaint made by a stranger can be entertained in this matter by the Scrutiny Committee and in fact, there was no way in which such order could have been passed by the Scrutiny Committee for the reason that the petitioner never complained to the Scrutiny Committee on these lines.

3. The question, however, remains to be answered is a fundamental question. Can a claimant like the petitioner prevent Scrutiny Committee from accepting relevant material which it thinks fit to be necessary for deciding the tribe claim of the petitioner and the answer that must be given would be in the negative. In fact, it is the duty of the Scrutiny Committee to verify the tribe or the caste claim raised before it by various persons and do everything which is necessary for verifying the genuineness of the claims made by such persons. That would also include the relevant material placed before it or brought to the notice of the Scrutiny Committee by persons who may even be the strangers. The only caveat in such a case would be that the Scrutiny Committee would have to exercise extreme care and caution in considering and appreciating such additional material placed before it by various persons, who might be strangers to the claim raised before the Scrutiny Committee. If Scrutiny Committee finds that such material has been placed before it with a bonafide object of assisting the Scrutiny Committee and in the process of assisting the larger public interest, the Committee may as well consider it. After all, larger public interest lies in verifying and validating the genuine caste and tribe claims, which attract various benefits under the affirmative action policy of the State and, therefore,

appropriate care and caution must be taken by the Scrutiny Committee. If the Scrutiny Committee finds that such material is not genuine and has been placed before it with some private agenda or hidden agenda, the Scrutiny Committee would have to reject such material and dismiss the complaint filed in that regard.

4. The stage of finding out the genuineness or otherwise of the complaint made by respondent no.2 is yet to arrive in the present case, as there is no such finding recorded whatsoever by the Scrutiny Committee. Therefore, we are of the view that this petition has been prematurely filed and deserves to be dismissed. The petition is accordingly dismissed.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]