

Subhash Jagannath Ahire	...	Petitioner
V/s.		
State of Maharashtra through Secretary, ... Tribal Development Departmetn and Anr.		Respondents

Mr. Ramchandra K. Mendadkar a/w. Ms. Komal Gaikwad for petitioner.

Ms. M.P Thakur-AGP for respondent nos. 1 and 2-State.

**CORAM : SUNIL B. SHUKRE &
M.W. CHANDWANI, J.J.**

DATE : 13TH JANUARY 2023.

P.C. :

Heard.

2. Rule. Rule made returnable forthwith heard finally by consent of the learned counsel for the parties.

3. We find that this Court has made observations in its judgment and order passed in Writ Petition No. 8695 of 2019, delivered on 9th August 2019, that the petitioner be granted a validity certificate subject to the re-scrutiny and re-verification of the claim of Subhash Ahire, the father of present petitioner, to whom a show cause

notice had already been issued by the Scrutiny Committee. In the wake of these observations, the preliminary objections taken or raised in clauses (b), (c) and (d) of paragraph 1 of the application filed by the petitioner for framing preliminary issue could not have survived for any adjudication by the Scrutiny Committee and therefore, rejection of these issues by Scrutiny Committee by the impugned order cannot be faulted with.

4. As regards, the preliminary objection in clause (a) contained in paragraph 1 of the application, we are of the view that the Scrutiny Committee has committed an error of law in not considering the issue regarding its powers to review caste validity certificate one way or the other. In fact, in series of judgments delivered by this Court, right from the case of '*Devendra Gurunath Khedgikar Vs. Scheduled Tribe Certificate Scrutiny Committee, Pune and Anr.*¹', this Court has consistently held that there is no power to review conferred upon scrutiny committee under the statute, and the power to review is not an inherent power. At the same time, this Court has consistently held that in certain exceptional cases, the Scrutiny Committee would have limited power of reconsideration of the caste validity certificate granted to a person, if it is proved that it has been obtained by that person by playing a fraud on the committee or by suppressing material facts or by misrepresenting facts which have bearing upon the social status of that person. It is only in these exceptional circumstances the Scrutiny Committee can exercise its jurisdiction for reconsideration of the issue of grant of caste validity

¹ 2009 (3) Mh.L.J. 433

certificate but, in no case, it can review its own order in routine manner. Therefore, the Scrutiny Committee in the present case was required to frame a preliminary issue in terms of clause (a) of the application and this has not been done by the Scrutiny Committee. We are of the view that on this aspect, the impugned order requires interference.

5. In this view of the matter, the impugned order is quashed and set aside only to the extent of framing preliminary issue regarding existence of power to review in the Scrutiny Committee.

6. We, direct the Scrutiny Committee to frame preliminary issue in terms of clause (a) of Paragraph 1 of the application of the petitioner and we further direct the Scrutiny Committee to decide the preliminary issue, along with other issues involved in the matter at the time of final hearing.

7. The matter is, therefore, remanded to the Scrutiny Committee for compliance.

8. On above terms, the petition is partly allowed.

9. Rule is made absolute. All contentions of the parties and merits of the matter are kept open.

(M.W. CHANDWANI, J)

(SUNIL B. SHUKRE, J)