



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 6073 OF 2024

Tumar s/o. Laxmanrao Gahlot Vs. The Joint Commissioner & Member, District Caste Certificate
Scrutiny Committee, Wardha and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Preeti Rane, Advocate for petitioner.
Mr. J.Y. Ghurde, Assistant Government Pleader for respondent No. 1.

**CORAM : BHARATI DANGRE &
ABHAY J. MANTRI, JJ.**

DATED : 10-10-2024

1. The petitioner's claim of belonging to 'Bhamti' Vimukta Jati-A was validated by respondent No. 1 Scrutiny Committee, Wardha on 24.5.2004 and even his real brother and nephew were conferred with validity in the year 2011 and 2022, respectively.

The claim of the petitioner's daughter Minal was taken up for enquiry by the Committee and by order dated 11.7.2024 it was invalidated and it is contention of the petitioner that it was de-hors the validity granted in favour of her own father, uncle and another relative.

It is in this background, on 5.9.2024, the respondent No.1 Committee addressed a communication to the employer of the petitioner i.e. the Chief Executive Officer, Zilla Parishad and another communication dated 13.9.2024 to the Deputy Chief Executive Officer, Administrative Department, Zilla Parishad, Wardha intimating that while deciding the caste claim of petitioner's daughter Minal, the Committee has recalled the validity certificate granted in favour of the petitioner as well as his brother Sachin Gahlot and one Nikit Rajesh Gahlot and has confiscated the said certificates.

2. Ms. Rane, the learned Counsel for the petitioner has placed reliance upon the decision of this Court at the Principal Seat in case

of ***Bharat Nagu Garud Vs. State of Maharashtra (2024)1 Mh.L.J.647 (Bharat Garud)***, clearly holding, that the Caste Scrutiny Committee, a statutory body exercising quasi adjudicatory functions, would not have any jurisdiction to suo motu verify the past records and initiate an action to reopen past decision and invalidate the caste validity certificates already granted.

The learned Division Bench in a very specific words have observed as under:

“30. In so far as the jurisdiction of a quasi judicial authority to exercise review powers is concerned, in our opinion, the reliance of the petitioner on the decision of the Supreme Court in the case of Naresh Kumar & Ors. Vs. Government (NCT of Delhi) (supra), is quite apposite. In such decision the Supreme Court, although in the context of an award under the Land Acquisition Act and whether there would be a power to review the award, reiterated the well-settled principle of law, that the power of review can be exercised only when the statute provides for the same. The Supreme Court observed thus:

“13. In Patel Narshi Thakershi vs. Pradyuman Singhji Arjunsinghji, Chandra Bhan Singh vs. Latafat Ullah Khan, Kuntesh Gupta vs. Hindu Kanya Mahavidyalaya, State of Orissa vs. Commr. Of Land Records & Settlement and Sunita Jain vs. Pawan Kumar Jain, this Court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/ Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.”

3. Division Bench of this Court in the case of Anil s/o Shivram Bandawar (supra), was confronted with an issue as to whether the Caste Scrutiny Committee would have any statutory power either under the 2000 Act or the Rules framed thereunder to “re-examine” a Caste Validity Certificate already issued. The Court referring to an earlier decision in

the case Apoorva d/o. Vinay Nichale vs. Divisional Caste Scrutiny Committee & Ors. 10, observed as under:-

“6. We find that it was not permissible for the Caste Scrutiny Committee to have re-examined the caste certificate and Caste Validity Certificate issued to the petitioner on the grounds on which it was so sought to be so re-examined as stated in the show cause notice. It is undisputed that there is no provision either in the Act of 2000 or the Rules framed thereunder to re-open/re-examine the matter of issuance of a Validity Certificate by it. This aspect as regards absence of statutory power to do so stands concluded by the decision of this Court in Apoorva Vinay Nichale (supra). It has been held in clear terms that merely because a different view on the same facts could be arrived at, the same would not entitle the Scrutiny Committee dealing with a subsequent caste-claim to reject such claim. As stated above it is on the basis of fresh material in the form of old revenue records of the year 1920-24 that the exercise of re-examining the Caste Validity Certificate was undertaken by the Scrutiny Committee. We thus find that in absence of any statutory power either under the Act of 2000 or the Rules framed thereunder to re-examine a Caste Validity Certificate already issued, the exercise undertaken by the Scrutiny Committee pursuant to the show cause notice issued by it was without jurisdiction.”

4. We find substance in the submission of Ms. Rane and we find while deciding the claim of the petitioner's daughter, and invalidating the same, without affording an opportunity of hearing to the petitioner, the validity certificate conferred upon him in the year 2004 has been recalled and confiscated and this is done on the premise that now the Committee has found that the validity has been wrongly granted.

5. In the light of the decision of this Court in case of **Bharat**

Garud (supra), such course of action is not at all permissible, and prima facie, we are of the view that the Committee has erred in taking recourse to such action and not only this it has addressed a communication to the employer of the petitioner requesting for putting to an end his services.

6. While issuing notice to the respondent No. 2 – Chief Executive Officer, Zilla Parishad, Wardha, by way of *ad interim* order, we grant stay to the communication dated 5.9.2024 (Annexure-15) and 13.9.2024 (Annexure-16) addressed by the respondent No. 1.

We also direct that no action, adverse to the petitioner shall be taken based on the action of the Committee in recalling the validity certificate already granted in his favour.

7. Mr. Ghurde, the learned Assistant Government Pleader waive notice for respondent No.1 and he shall file affidavit in reply on behalf of the Scrutiny Committee justifying the exercise of powers by the Committee in recalling validity already granted in favour of the petitioner, within a period of four weeks.

We permit the petitioner to file rejoinder, if necessary, within a period of two weeks, thereafter.

8. Re-notify to 2.12.2024.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)

R.S.Belkhede, PA.