



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

WRIT PETITION NO. 3716 OF 2013

PETITIONER :-

Tejaswini D/o Rushi Mundare, Aged about
18 yrs., Occu. Student, R/o Gorvat, Post –
Motegaon, Tah.Chimur, Distt. Chandrapur.

...VERSUS...

RESPONDENTS :-

- 1) The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli. Through
Vice Chairman.
- 2) The Directorate of Medical Education &
Research, Mantralaya, Mumbai.
- 3) Kasturba Health Society's Mahatma Gandhi
Institute of Medical Sciences, Sevagram,
Wardha-442102, through its Dean.
- 4) The Vice-Chancellor, Maharashtra
University of Health Sciences, Nasik.

Ms Preeti Rane, Advocate for petitioner.
Mr. C.A.Lokhande, A.G.P.for respondent Nos.1 and 2.
Mr.A.S.Manohar, Advocate for respondent No.3.
None for respondent No.4.

CORAM : ANOOP V. MOHTA &
M. G. GIRATKAR, JJ.

DATED : 04.10.2017

ORAL JUDGMENT (Per : Anoop V. Mohta, J.)

Called out from final hearing board.

2. The Petitioner has challenged the impugned order dated 31/05/2013 passed by The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli, thereby rejected the case of validation of caste certificate being belonged to “Mana” Scheduled Tribe, though there are various documents on record including the caste certificates of validity of father dated 21/09/2007 and of brother dated 02/11/2007. This in our view is against the position of law including the provision itself. The Scrutiny Committee ought not to have scuttled such certificates while assessing the real daughter's/sister's certificate. The aspect of original place of residence and/or of area restriction in view of the above admitted position on record cannot be prevailed over such certificate of father. This is specifically when there is no case of any fraud, misrepresentation and of any illegality made out and/or even pointed out on record.

3. This court on various occasions reiterated that such paternal side certificate and in the present case of father and brother are the direct relatives ought to have been respected while considering the case of validation of caste certificate of petitioner daughter/sister. The State must take positive steps, to avoid such litigations in view of settled position of law and the judgments, including general direction, to save public time, money and to avoid injustice, unnecessary hardship and harassment.

4. This court recently in Writ Petition No. 6337 of 2015 (Kum. Sujata Prakash Lade Vs. State of Maharashtra & Ors.), dated 04/09/2017, keeping in mind the provision of law as well as the settled judgments in similarly situated matter, quashed and set aside such order and directed the Caste Scrutiny Committee to issue validity certificate to the Petitioner as early as possible. The relevant paragraph Nos.3 and 5 of the said judgment read as under :-

“3 This Court by Oral Judgment dated 22 February 2017 passed in Prakash Vasudev Lade Vs. State of Maharashtra & Ors. (WP No.5602 of 2015), directed the concerned Respondents/Caste Scrutiny Committee to issue Caste Validity Certificate. The Petitioner's real brothers have already got the validity certificate long back. However, Respondent No.2-the Scrutiny Committee, rejected the claim of the petitioner, which in our view, unsustainable. This Court, today i.e. on 4 September 2017 in Writ Petition No.6631 of 2014 and other connected matter (Tejaswini D/o Chandrakant Thakur Vs. Scheduled Tribe Certificate Scrutiny Committee, Nashik & Ors.), has dealt with this issue of Caste Validity Certificate and directed the Respondent-Scrutiny Committee, to issue Caste Validity Certificate.

5 Therefore, taking overall view of the matter and as the Petitioner's case is covered by above Judgments and the fact that the Petitioner's father, grand-fathers, real uncle, cousin sisters and brother and cousin aunt have already been granted

the Caste Validity Certificates by the concerned Scrutiny Committee, there is no reason not to grant the Caste Scrutiny Certificates to the Petitioner, in view of above admitted position on record.”

5. Therefore, taking overall view of the matter, we are inclined to allow the petition in the following terms.

ORDER

- (a) Impugned order dated 31/05/2013, passed by Respondent No.1-The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli is quashed and set aside.
- (b) Respondent No.1-Scrutiny Committee is directed to issue Caste Validity Certificate to the Petitioner as early as possible and preferably within four weeks from the receipt of the copy of judgment.
- (c) The concerned Respondent to take note of this and pass consequential order accordingly.
- (d) The State Government to take effective steps to avoid such litigations.
- (e) Rule is made absolute accordingly. There shall be no order as to costs.

(M.G.GIRATKAR, J.)

(ANOOP V. MOHTA, J.)