



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5160 OF 2012

Rajeshwar Baburao Bone

Petitioner

Versus

The State of Maharashtra
and another

Respondents

Mr.Anandsing Bayas, advocate for the petitioner.
Mr.R.P.Phatake, A.G.P. for Respondent No.1.
Mr.P.S.Patil, advocate for Respondent No.2.

CORAM : R.M.BORDE &

A.I.S.CHEEMA, JJ.

DATE : 17th December, 2013.

PER COURT:

1 The petitioner is assailing order dated 24.02.2012, passed by Respondent No.2-Scrutiny Committee, reviewing its earlier order of issuing validity certificate in favour of the petitioner and directing cancellation of tribe certificate.

2 The petitioner claims to be belonging to "Koli Mahadev", Scheduled Tribe. Since the petitioner has secured employment with Zilla Parishad, Beed, on the post reserved for Scheduled Tribe category, the tribe certificate issued in his favour has been referred to the Scrutiny Committee for verification. On

consideration of all the documents furnished by the petitioner including affidavits as well as forms filled in by the petitioner, the Scrutiny Committee proceeded to issue validity certificate by reasoned order dated 19.06.2010.

3 It was later on revealed that tribe certificate issued in favour of brother of petitioner by name Sharadkumar Baburao Bone has been invalidated by the Committee by order dated 20.10.2004 and said order was communicated to him on 27.10.2004. The writ petition challenging the order passed by the Committee, invalidating tribe claim of brother of the petitioner, being Writ Petition No.6934/2004, has been dismissed by this Court and the Special Leave Petition (C) No.11645 of 2005, filed against the order passed by this Court, has been dismissed by the Supreme Court on 10.05.2005.

4 The Scrutiny Committee, as such, decided to reconsider the matter concerning issuance of validity certificate in favour of the petitioner. The petitioner was duly noticed by the Committee and after extending opportunity of hearing to the petitioner, the Scrutiny Committee has recalled its earlier order and directed invalidation of tribe certificate of the petitioner. In paragraph nos.7, 8, 9 and 10, the Scrutiny Committee has observed thus:

7 Applicant has submitted in Form 'E' in which column no.17(a) it is specifically asked that whether any family member from your families members previously verified? Applicant answered that, "NO".

8 Applicant filed affidavit, notarized before notary on 13/01/2009 in format 'F' in which he specially made statement on oath, "No scheduled tribe certificate of any of my relatives from paternal side is ever held invalid by the Scrutiny Committee.

9 Applicant also submitted another affidavit dated 16/03/2009 in which he again made fake statement that "Any of my sister and brother or blood relatives bears surname as Bone whose claim never invalidated by the committee or no any petition pending before any court".

10 The Police Inspector of vigilance cell recorded statement on 09/04/2009 of applicant's father namely Shri Baburao Gundaji Bone. He also again made statement that "In my family, in Bone surnames or in my relatives whose claim never invalidated by the committee or no any petition pending before any court." On the said statement as a witness signed by applicant himself.

5 In our opinion, petitioner has willfully misled the Scrutiny Committee for securing validity certificate wrongfully. The petitioner is guilty of making false statements on oath before the Scrutiny Committee. As a result of misrepresentation made by the petitioner earlier, the Scrutiny Committee had issued

validity certificate in his favour. However, after realising fraudulent act of the petitioner, the Committee proceeded to recall its earlier order. Since the petitioner has played fraud by filing false affidavits on record before the Committee, the Committee was justified in recalling its earlier order of granting validity certificate in favour of the petitioner. It is well established that in the event of occurrence of fraud, Scrutiny Committee can recall its earlier order even in the absence of specific provision enabling the Committee to exercise powers of review.

6 For the reasons recorded above, no interference is called for in the petition.

7 Writ Petition stands dismissed.

A.I.S.CHEEMA
JUDGE

adb/wp916012

R.M.BORDE
JUDGE