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Court : Mumbai Nagpur

Decided On : Aug-27-2014

Judge : A.P. Bhangale & C.V. Bhadang

Appeal No. : Writ Petition No. 2586 of 2013

Appellant : Anil and Others

Respondent : State of Maharashtra, Through Secretary to Tribal Development Department and Others

Judgement :

Oral Judgment:

1. **Rule.** Rule is made returnable forthwith. Heard the petition by consent of learned counsel appearing for both the parties.
2. This petition is filed for orders or direction against respondent No.2/Committee for Scrutiny and Verification of Tribal Claims on the ground that the petitioners are adversely affected because of caste validity certificates granted in favour of respondent Nos.4 to 6 by the Caste Scrutiny Committee.
3. Learned counsel appearing for the petitioners disputed the status of respondent Nos.4 to 6 as belonging to Scheduled Tribe on the ground that Annexures in the

petition particularly copy of registered sale deed annexed as Annexure-I did not indicate that sellers were belonging to Scheduled Tribe. The petitioners sought to rely upon the number of documents to substantiate the contention that by suppression of true facts caste validity certificates were obtained from the Committee for Scrutiny and Verification of Tribal Claims.

4. It is urged that the Caste Scrutiny Committee ought to examine genuineness of documents copies of which are annexed along with the petition as according to the petitioners the certificates of validity were granted without hearing the petitioners inasmuch as the petitioners would be adversely affected if alleged tribal status of respondent Nos.4 to 6 is confirmed by the statutory body i.e. Committee for Scrutiny and Verification of Tribal Claims.

5. Learned counsel appearing for respondent No.2/Caste Scrutiny Committee brought to our notice printed proforma, in which decision of the scrutiny committee appears to have been taken with blanks filled in. It appears that the Additional Commissioner Tribal Development, Amravati, in the column for signature of the Committee Members, did not sign nor the Director/Commissioner, TRTI Pune. The columns, i.e. the name of candidate, namely Chaya Gyansing Daberao, with date of receipt, are mentioned in black ink while the columns for number, date and issuing authority of Caste Certificate are mentioned in blue ink. The columns such as, date of previous hearing, present on, and absent on as well as notice issued on to the candidate are kept blank as also date of receipt of PVR name of enquiry officer and signature, date of issue of PVR to the candidate, date of submission of say by the candidate, validity certificate of blood relatives submitted by the candidate regarding documents prior to 1950 submitted by the candidate are at column Nos.10 to 14 which appear blank. The column Nos.6 and 7 are also kept blank. Although learned counsel for respondent No.2/Caste Scrutiny Committee did not dispute the fact that this is original order on the basis of which the caste validity certificates have been issued, it must be borne in mind that the issuance of caste validity certificates cannot be an empty formality. The Caste Scrutiny Committee is required to hear the parties concerned after giving due notice to the persons who are likely to be affected by its decision. The stage of verification of the caste requires the Committee concerned to call for Vigilance Report of the

candidate concerned, inquire about the blood relatives of the candidate, and examine documents which are existing prior to 1950 which are submitted by the candidate because onus of proof is primarily upon the candidate or the person claiming the status as belonging to the particular caste or tribe. The decision is likely to entail civil as well as penal consequences according to law particularly when the serious accusation is made about fraud played by the person who obtained the caste validity certificate such as suppression of real facts from the Committee.

6. Learned counsel for the petitioners has placed reliance upon the ruling in the case of **Smt. Sangita Sharad Kolse ..vs.. State of Maharashtra and ors** reported at **2006(O) BCI 341**. This Court after making reference to the judicial precedents in paragraph No.23 considered the effect of fraud practised upon the Court or suppression of true facts from the Court concerned.

7. It cannot be disputed that a person guilty of playing fraud or suppression of facts from the statutory Authority like Caste Scrutiny Committee cannot be entitled to reap the advantage of the order passed, if any, as a result of such imputable conduct. In the facts and circumstances of the present case, we are satisfied that the full inquiry had not taken place before the Scrutiny Committee by whom the decision was made. We have found that column Nos.6, 7, and 10 to 14 were kept blank and some of the Members of the Committee had failed to sign the minutes of the meeting of the Committee. That being so, in our opinion, the decision of the Scrutiny Committee, as a quasi judicial authority, in the present case is not sustainable. Under these circumstances, in the facts and circumstances of this case, considering the casual nature of inquiry and casual approach of the Scrutiny Committee, we must set aside the impugned orders with a direction to the Scrutiny Committee to hear the parties afresh, call for Vigilance Report, if any, and then decide the status of the petitioners candidates after due verification and scrutiny thereof by reasoned order.

8. Learned counsel appearing for respondent No.2/Scrutiny Committee relies upon the photostate copy of the agreement to sell dated 4.9.1944 between Chintaman Deoman Takankar and Bhikanrao Dattatray Marathe. Our attention is also invited

to Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules 2003 regarding sending the documentary evidence to Vigilance Squad. Needless to state that the Committee concerned shall decide the status of the candidates in accordance with the provisions, rules and, regulations under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificates Act, 2000 (Act No.23 of 2001).

9. In the result, Rule is made absolute in terms of prayer clause 1A of the petition with a direction that the Scrutiny Committee shall hear the parties concerned afresh, call for Vigilance Report, if required, and then decide the caste status of the petitioners candidates after due verification and scrutiny thereof in accordance with the provisions as are mentioned in law, as early as possible, and in any case preferably within a period of six months from the date of receipt of writ.

10. Needless to mention that all rival contentions raised by respective parties before this Court are kept open and the Scrutiny Committee shall apply its own mind independently and shall not be influenced by order passed by this Court.

The writ petition is disposed of accordingly. No order as to costs.

11. Learned counsel appearing for respondent Nos.4 to 6 prays for staying the effect and operation of this order. For the reasons discussed in detail stated above, we are not inclined to grant the stay, hence the prayer made is rejected. The proceedings before the Tahsildar shall remain stayed until the decision is taken and communicated to the petitioners by the Scrutiny Committee.

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