

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11433 OF 2014

Sagar S/o Bharatsing Patil
Age- 24 years, Occu.: Student,
R/o. 149, Adarsha Nagar,
Panchamrut Apartment,
Tq. & District Jalgaon.

... PETITIONER.

VERSUS

1. The State of Maharashtra
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai – 32.

2. The Divisional Caste Certificate
Verification Committee No.2, Dhule
District Dhule.

3. Chetana Ramprasad Khandelwal
Institute of Management and Research
Government Colony, Mumbai
Through its Director.

... RESPONDENT.

Mr. Yogesh Bolkar, Advocate H/f. Mr. A.B. Girase, Advocate for
Petitioner;

Mr. D.V. Tele, A.G.P. For Respondent No.1/State.

CORAM : S.S. Shinde and P.R. Bora, JJ.

RESERVED ON : 19th March, 2015
PRONOUNCED ON : 26th March, 2015

Judgment: (Per : P.R. Bora,J.)

1) Heard. Rule. Rule made returnable forthwith, with the consent of the parties.

2) Order dated 08th October 2014 passed by the Divisional Caste Certificate Verification Committee No.2, Dhule (Respondent No.2 in the present matter) whereby it has invalidated the caste certificate of the Petitioner, is questioned in the present petition.

3) Petitioner claims himself to be belonging to 'Rajput Bhamta' Nomadic Tribe. He is pursuing M.B.A. Course at Chetana Ramprasad Khandelwal Institute of Management and Reaserch, Mumbai (Respondent No.3 in the present matter). As is revealing from the averments in the petition, Petitioner seems to have secured the admission in Respondent No.3 College availing the benefit of the reservation available to Nomadic Tribes candidates.

3) Petitioner has assailed the decision of the Respondent No.2 Committee on various grounds. It is the contention of the Petitioner that, when he has produced on record the caste validity certificate issued in favour of his father namely Bharatsing Umraosing Pail, as well as in favour of his uncle

namely Surendra Umraoshing Patil in view of the Judgment of the Division Bench of this Court in the case of **Dharmendra Ramakant Mote Vs. State of Maharashtra in Writ Petition No. 5032/2006 dated 06th October, 2006**, the Respondent no.3 Committee ought to have validated the caste certificate issued in his favour. It is the further contention of the Petitioner that, the conclusion recorded by the Respondent No.3 Committee that the Petitioner failed in producing before the Committee any document prior to the year 1961 evidencing that the caste of any of his near relative is recorded as 'Bhamta Rajput' is erroneous.

4) The learned counsel appearing for the Petitioner vehemently argued that, the Respondent No.3 Committee has grossly erred in discarding the caste validation certificate issued in favour of the father of the Petitioner and has exceeded its jurisdiction in making observation that the the caste validity issued in favour of the father of the Petitioner has not been properly issued. The learned counsel placed reliance on the Government Circulars dated 08th May, 1991, 25th August, 1997 and 8th February, 1998. The learned counsel submitted that, the Respondent No.3 Committee has ignored the guidelines issued

vide the aforesaid circulars. The learned counsel also referred to the Government Resolution dated 22nd August, 2007 to urge that, clear directions are issued vide the said Government Resolution that, in the event caste validity certificate is issued in favour of any of the blood relative and such validity certificate is produced for seeking caste validity by any of other relative, the Caste Scrutiny Committee shall within a month decide the caste validity of such candidate. The learned counsel pointed out that, the aforesaid Government Resolution clearly mandates that, in such circumstances, no other evidence is to be asked from such candidate. The learned counsel relied upon the Judgment of the Division Bench of this Court, in the case of **Dharmendra Ramakant Mote** (cited supra) to substantiate his said contention.

5) Opposing the submissions advanced on behalf of the Petitioner, the learned A.G.P. Submitted that the Rspondent No.3 Committee, after following the due process of law, has passed an elaborate and reasoned order. The learned A.G.P. Submitted that, the Petitioner failed in producing before the Committee any document of the date prior to 1961 evidencing that any of his

blood or near relative was holding the caste certificate showing his caste therein as 'Rajput Bhamta'. The learned A.G.P. submitted that, in all the documents, more particularly the caste certificates produced on record by the Petitioner, the caste has been shown as 'Hindu Rajput'. The learned A.G.P. further submitted that, it was not binding on the Scrutiny Committee to blindly rely upon the previous caste validity certificates and was squarely within its limit to assess the claim of the present Petitioner on its own merit. He, therefore prayed for dismissal of the Petition.

6) We have carefully considered the submissions advanced by the respective counsel of the parties. We have perused the documents filed on record and the impugned order passed by the Respondent No.2 Committee. On perusal of the impugned order passed by the Respondent No.2 Committee.

7) In the argument advanced by the learned counsel for the Petitioner, his entire thrust was on the point that, the Respondent No.2 Committee has grossly erred in not relying upon the caste validity certificate issued in favour of the father of the

Petitioner as well as the uncle of the Petitioner. The learned counsel argued that, when the Petitioner has placed on record the caste validity certificate of his father, the Caste Scrutiny Committee should not have asked any more document and must have issued caste validity on the basis of the caste validity issued in favour of his father.

8) On perusal of the impugned order, it is revealed that, the similar submission was made before the Committee also and the Committee has dealt with the same. In paragraph No.11 of the impugned order, the Committee has noted that, in the order passed in the appeal by Revenue Commissioner whereby he has set aside the order passed by the Director, Social Welfare, refusing the tribe certificate to the father of the Petitioner, the learned Revenue Commissioner has not provided any reason. The committee has further observed that the order passed by the Revenue Commissioner does not disclose whether any vigilance enquiry or home enquiry was made prior to allowing the said appeal, validating the caste/tribe certificate of the father of the Petitioner certifying that he belongs to 'Rajput Bhamta' Scheduled

Tribe. The Committee has further noted that, the order passed by the Revenue Commissioner also does not reveal, whether any evidence of the period prior to the year 1961 as regards to the caste of the father of the Petitioner was produced before it. The Committee has further observed that, if at all, the father of the Petitioner would have given any evidence of the period prior to 1961 evidencing that the caste of the father of the Petitioner or any of his blood relatives was recorded as 'Rajput Bhamta', the said evidence and/or document could have been produced by the present Petitioner also. The Committee has further observed that, mere submission of caste validity of his father by the petitioner was not enough.

9) We have carefully considered the observations so made by the Committee. We do not find any infirmity in the observations so made by the Committee. Law is well settled that, each claim has to stand on its own merits. The opinion formed by the committee as regard the cases of near relatives though would not be wholly irrelevant as itself would not be conclusive in nature so as to bound the another committee while examining the

case of any other member of the family. As such, mere filing of caste validity certificate of his father would not absolve the petitioner from discharging the burden on him to produce on record the relevant evidence in support of his caste claim.

10) We find force in the discussion made by the committee as above, in view of the fact that, in the school leaving certificate of the father of the Petitioner, which has been filed on record in the present case by the Petitioner himself, the caste of his father is shown as 'Hindu Rajput'. Similarly, the caste of his grandfather has also been shown as 'Hindu Rajput'. In the circumstances, we do not find any illegality or infirmity in the order passed by the Respondent No.2 Committee. However, if the Petitioner is still in position and intends to place on record any evidence/document of the period prior to year 1961 evidencing the caste of his forefathers as 'Rajput Bhamta', such opportunity, of course, needs to be given to the Petitioner. If, such evidence is produced before the Committee, the Committee shall reconsider the caste claim of the Petitioner in light of the evidence which may be produced before it. In the result, following order:-

- (a) Order dated 08.10.2014 passed by the Respondent No.2 Committee is quashed and set aside.
- (b) Matter is remitted back to the Respondent No.2 Committee with a direction that it shall permit the Petitioner to produce on record the further evidence as regards the caste claim propounded by him and re-consider the matter in the light of evidence, which may be produced.
- (c) The Petitioner shall appear before the Committee on 06.04.2015 and shall abide by the orders by the Committee.
- (d) The Respondent no.2 Committee shall decide the caste/tribe claim of the Petitioner within six months thereafter. It is made clear that, the Committee is also at liberty to conduct further enquiry, if warranted.
- (e) The on going education of Petitioner is protected. The Respondent No.3 College shall not take any adverse action against the Petitioner on the ground of non submission of the caste/tribe validity certificate by him.
- 11) With directions as above the Writ Petition stands disposed of. No order as to costs.

**P.R. Bora,
Judge**

**S.S. Shinde,
Judge**

S P Rane