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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5189 OF 2014

Shri Gopal Babulal Lalbeg

... Petitioner

Vs.

Kumar Gorakhnath Shinde and Ors.

... Respondents

Mr. R.K. Mendadkar, for the Petitioner.

Mr. Balkrishna D. Joshi, for the Respondent No.1.

Mrs. M.P. Thakur, AGP, for Respondent Nos.3 to 5.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 24th FEBRUARY, 2015

PC.

. Heard the learned counsel appearing for the Petitioner, the learned counsel appearing for the first Respondent and the learned AGP for third, fourth, fifth and sixth Respondents. The first challenge in this Petition is to the caste validity certificate dated 20th November, 2011 issued to the first Respondent by the fourth Respondent Caste Scrutiny Committee. The second challenge is to the caste certificate dated 28th July, 2000 issued by the sixth Respondent to the first Respondent. The caste certificate issued by the sixth Respondent records that the first Respondent belongs to 'Mahar' - a Scheduled Caste. The said caste certificate has been validated under the impugned order passed by the fourth Respondent - Scrutiny Committee.

2. As per the order of this Court, the learned AGP has produced the record of the Scrutiny Committee. We have perused the record. The first order passed by the fourth Respondent – Caste Scrutiny Committee on the application made by the first Respondent is a direction to the first Respondent to produce pre-1950 documents. There is an order passed by the fourth Respondent Committee in the Roznama dated 20th November, 2011 which consists of only 8 to 9 words by which the caste claim of the first Respondent is held to be valid. Perusal of the file shows that even vigilance cell inquiry was not ordered by the Caste Scrutiny Committee. Therefore, the impugned caste validity certificate and the impugned order dated 20th November, 2011 will have to be quashed and set aside with a direction to the fourth Respondent – Caste Scrutiny Committee to decide the caste claim of the Petitioner afresh in accordance with law.

3. The learned counsel appearing for the Petitioner submits that the caste certificate dated 28th July, 2000 issued to the first Respondent is invalid. His submission is that the certificate is not issued in proper form.

4. The Caste Scrutiny Committee will have to decide the issue of caste claim of the first Respondent and, therefore, the Caste Scrutiny

Committee will have to consider the aspect whether the caste certificate is void as contended by the learned counsel appearing for the Petitioner.

5. As we propose to remand the matter for a fresh inquiry by the fourth Respondent – Scrutiny Committee, the prayer made for setting aside the election of the first Respondent cannot be entertained at this stage.

6. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) We set aside the order dated 20th November, 2011 passed by the fourth Respondent - Caste Scrutiny Committee as well as the caste validity certificate of the same date issued to the first Respondent;
- (ii) We direct the fourth Respondent – Committee to hold a fresh inquiry in accordance with law after ordering a vigilance cell inquiry. We direct the Petitioner and the first Respondent to appear before the fourth Respondent on 16th March, 2015 at 11.00 am for fixing the schedule of hearing. The Caste Scrutiny Committee will permit the parties to file additional documents;

- (iii) The issue whether the caste certificate dated 28th July, 2000 is void will be decided by the Caste Scrutiny Committee;
- (iv) After making an appropriate adjudication in accordance with law, a fresh order shall be passed by the fourth Respondent as expeditiously as possible and preferably within a period of four months from 16th March, 2015;
- (v) All contentions on the caste claim of the first Respondent are kept open to be decided by the Caste Scrutiny Committee.
- (vi) Rule is made partly absolute on above terms. No order as to costs;
- (vii) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)

(A.S.OKA, J)