

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8010 OF 2009
WITH
CIVIL APPLICATION NO.2350 OF 2015
IN
WRIT PETITION NO.8010 OF 2009
WITH
CIVIL APPLICATION NO.2351 OF 2015
IN
WRIT PETITION NO.8010 OF 2009

Akash s/o Satish Gavali **Petitioner/Applicant**

V/s

The State of Maharashtra & Ors. **Respondents**

Mr. Anil S. Golegaonkar for Petitioner/Applicant.

Mr. A.I. Patel, AGP for Respondent Nos.1 to 4/State.

Mr. Rugved Lokare I/b Mr. R.V. Govilkar for Respondent No.5.

CORAM : ANOOP V. MOHTA &

A.A. SAYED, JJ.

DATED : 27 OCTOBER 2015

ORDER:

1 Rule. Rule made returnable forthwith. Heard finally, by consent of the parties.

2 Petitioner has challenged order dated 27 August 2009 passed by the Scheduled Tribe Certificate Scrutiny Committee - Respondent No.2, invalidating the caste certificates of the Petitioner as belonging to "Thakar Scheduled Tribe", issued by the Competent Authority.

3 The basic case of the Petitioner is as follows:

- i) On 27 February 2001, the Sub Divisional Officer, Baramati issued Caste Certificate to the Petitioner that he belongs to 'Thakar – Scheduled Tribe'. On 19 June 2007, while the Petitioner was studying in 12th standard, his Tribe Claim referred to Committee for verification and it is numbered as Case No.73 of 2007.
- ii) On 11 July 2008, Petitioner submitted his interim reply to the Vigilance Cell Report dated 30 July 2007 and strongly objected the statement recorded of one Mayur Ramesh Gavali on 16 March 2006, i.e., prior to submission of proposal of the Petitioner to the Committee for verification, wherein nowhere his relationship with the Petitioner is mentioned, but the Vigilance Officer at his own stated his relationship with the Petitioner as cousin on the basis of same Surnames. Therefore, Petitioner requested for re-inquiry and also requested not to rely upon the said Vigilance Report dated 30 July 2007.
- iii) On 30 April 2009, another Vigilance Officer recorded statement of father of the Petitioner on 30 April 2009 and submitted his new Inquiry Report to the Committee on 18 May 2009, which is served to the Petitioner by letter dated 15 June 2009. The said report is totally in favour of the Petitioner.

4 In the present case as noted even the caste validity certificate of real father, real sister, paternal uncle and aunt and other four cousins

have been ignored/over-looked by the Caste Scrutiny Committee and by relying on the vigilance cell report and the Committee has rejected the caste claim of the Petitioner which in our view is contrary to the position of law and therefore unsustainable. We have also noted that this is a not case of fraud and/or misrepresentation. The relationship and the caste validity certificates so issued to the paternal side relatives are also not disputed. Therefore, taking over all view of the matter and in view of the above facts and circumstances, the Petition is allowed in terms of prayer clause (b). Respondent No.2 - Scheduled Tribe Caste Certificate Verification Committee, Pune Division, Pune to issue caste validity certificate as early as possible and in any event before 18 November 2015 as the Petitioner wants to apply for admission of post graduation course.

5 Petitioner based upon the caste validity certificate in question has already appeared in the MBBS course and final examination. Petitioner has also completed one year internship. Respondent No.5 University has also issued mark sheet but not released degree certificate. Therefore, in the interest of justice and in view of the above, we are inclined to direct the Respondent No.5 - University to issue degree Certificate of M.B.B.S. and internship completion certificate within one week after receipt of the caste validity certificate and also direct the Respondent No.6 - College to return/handover all original documents of

the Petitioner as early as possible and in any event before 20 November 2015.

6 This Court in the matter of **Sanjay Bajirao More & Anr. vs. State of Maharashtra & Ors. (Writ Petition No.5831 of 2015, decided on 19 October 2015)** has considered the importance of relatives caste certificates i.e. 'Thakur - Scheduled Tribe' and observed as under:

- a) Unless a case of fraud or misrepresentation is made out, the Scrutiny Committee should not overlook the caste validity certificates issued to the paternal relatives and reject the caste claim of the similarly placed relatives/claimants.
- (b) Mere allegations of fraud and misrepresentation is not sufficient to reject the caste claim, unless it is proved after due inquiry and trial by the Competent Court/Authority in accordance with law.
- (c) The decided caste claim of the relatives should be given effect and/or importance, for an adjudication of caste validity of the other relatives before granting or rejecting the similar caste claim.
- (d) Unless exceptional case is made out, the Scrutiny Committee or other Authority, needs to pass final order based upon the paternal relative's caste validity certificates without delay.
- (e) The inquiry needs to be made of the issue about "restricted area", as elaborated and discussed in the Judgments of **Madhuri Nitin Jadhav vs. State of Maharashtra & Ors.** (Anoop V. Mohta & A.A.

Sayed, JJ.) and **Pramodkumar Narendrakumar Wagh vs. State of Maharashtra & Anr.**¹ (Anoop V. Mohta & K.R. Shriram, JJ.) only in case where, there is no proved material to support; like paternal and/or relatives caste certificates.

- (f) The case that claimant is not entitled for the certificate in view of “area restriction”, may be reconsidered in spite of relatives certificates, if a case of fraud and misrepresentation is made out and not on mere allegations. However, it is also subject to grant of opportunity to all the concerned.

7 Therefore, taking overall view of the matter, we pass the following order:

ORDER

- (a) The Writ Petition is allowed.
- (b) Rule is made absolute accordingly. No costs.
- (c) It is made clear that the Respondent-Authority to issue caste validity certificate, as early as possible and in any event before 18 November 2015.
- (d) The Respondent - University to issue degree Certificate of M.B.B.S. and Internship Completion Certificate to the Petitioner within one week of receipt of caste validity certificate.

¹ 2015(4) ALL MR 502 = 2015 (4) Mh.L.J. 949

- e) The Respondent – College to return/handover all original documents of the Petitioner as early as possible and in any event before 20 November 2015.

8 In view of the disposal of the Writ Petition, both Civil Applications are disposed of accordingly. No costs.

(A.A. SAYED, J.)

(ANOOP V. MOHTA, J.)

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