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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6290 OF 2013**

Sanjay Pandurang Ghadigaonkar	... Petitioner
Versus	
The State of Maharashtra and Ors.	... Respondents

Mr. Laxman S. Deshmukh for the Petitioner.
Mr. V.P. Malvankar AGP 'A' Panel for the Respondent Nos.1 to 3.
Mr. Shrishailya Sadashiv Deshmukh for the Respondent No.4.

**CORAM : A.S. OKA &
G.S. PATEL, JJ.**

DATE : 14th DECEMBER, 2015

ORAL JUDGMENT (Per A.S. Oka, J.)

1. Heard the learned counsel appearing for the Petitioner, the learned AGP for the Respondent Nos.1 to 3 and the learned counsel appearing for the fourth Respondent. Rule. The learned counsel appearing for the Respondents waive service. Forthwith taken up for final disposal.

2. By this Petition under Article 226 of the Constitution of India, the challenge is to the order dated 12th April, 2007 passed by the Divisional Caste Certificate Scrutiny Committee, Kokan Division, Navi Mumbai by which caste certificate dated 12th October, 2006 granted to

the fourth Respondent by the Sub-Divisional Officer, Thane Division, Thane was validated. The caste certificate records that the fourth Respondent belongs to the caste “Shimpi” which is recognised as “Other Backward Class” under the Government Resolution dated 13th October, 1967 as amended from time to time. On the basis of the said caste certificate dated 12th October, 2006, the fourth Respondent applied to the Caste Scrutiny Committee. In the said application, the fourth Respondent specifically claimed that she belongs to “Namdev Shimpi” caste which is declared as “Other Backward Class”. When the said application was made by the fourth Respondent, admittedly, the caste “Namdev Shimpi” was not declared as “Other Backward Class” in the State of Maharashtra. On the basis of such application, the Caste Scrutiny Committee has purported to validate the caste claim of the fourth Respondent that she belongs to the caste “Shimpi”.

3. Our attention is invited to the Government Resolution dated 1st March, 2014. By the said Government Resolution, the earlier Resolution notifying the castes included in the category Other Backward Class has been modified. In Entry No.153 which contain caste “Shimpi”, caste “Namdev Shimpi” has been added.

4. There is an affidavit in reply filed by the fourth Respondent. In paragraph 7, the fourth Respondent has stated that she

is ready and willing to obtain a fresh caste certificate of the caste “Namdev Shimpi” and to apply for validating same.

5. Thus, when the fourth Respondent made an application to the Caste Scrutiny Committee (Exhibit-B to the Petition), she claimed that she belongs to “Namdev Shimpi” Caste. On the date of making the application, the said caste was not notified as “Other Backward Class” in the State of Maharashtra. The application appears to have been filed by the fourth Respondent in October, 2006. On the basis of the claim that the fourth Respondent belongs to “Namdev Shimpi” caste, the Caste Scrutiny Committee could not have validated the caste certificate dated 12th October, 2006 which records that the caste of the fourth Respondent was “Shimpi”.

6. Now, the fourth Respondent has shown willingness to make an application for grant of a caste certificate showing that she belongs to caste “Namdev Shimpi”. In view of this statement and in view of the statements made by the fourth Respondent in her application made in the year 2006 before the caste Scrutiny Committee, the impugned order and the caste certificate dated 12th October, 2006 will have to be set aside.

7. Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) The impugned order dated 12th April, 2007 passed by the second Respondent – Caste Scrutiny Committee and the consequent validity certificate issued on the basis of the said order are hereby quashed and set aside.
- (ii) The caste certificate issued by the fourth Respondent dated 12th October, 2006 (Exhibit – C to the Petition) is hereby set aside. This order will not preclude the fourth Respondent from making a fresh application to the Competent Authority for grant of caste certificate showing that she belongs to caste “Namdev Shimpi.” If such application is made by the fourth Respondent, the Competent Authority shall decide the same as expeditiously as possible in accordance with law;
- (iii) All contentions of the parties on merits of the caste claim are expressly kept open;
- (iv) Rule is made absolute partly on above terms.

(G.S. PATEL, J)

(A.S. OKA, J)