

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5831 OF 2015**

1 Sanjay Bajirao More,

Aged 42 years, residing at

Gharkul Society, Plot No. 136/D-I,

MHADA Colony, Pokhran Road-2,

Thane (W), District. Thane.

2 Sharad Gulab More,

Aged 42 years, C/o. Ashok Suryavanshi,

Sainath Nagar, (Sai Dhan Kuti),

Near Ration Kirana Shop,

Behind Kajuwadi, Thane (West).

...Petitioners

Vs.

1 State of Maharashtra through

Its Principal Secretary

Tribal Development Department

Mantralaya, Mumbai: 400 032.

2 Scheduled Tribe Certificate

Scrutiny Committee, Nandurbar

Division, through its Member-Secretary

District Nandurbar.

3 Maharashtra State Electricity

Distribution Company Ltd.

Through its Chief Engineer, Bhandup

Nagari Parimandal, 1st floor

Bhandup (West), L.B. S. Marg

Mumbai: 400 078.

4 Municipal Corporation of Greater

Mumbai through its Deputy Chief Security

Officer, Lakhamshi Nappu Marg,

Hindu Colony, Dadar (E),

Mumbai 400 014.

...Respondents.

Mr. R.K. Mendadkar with Ms. Helen Koli and Mr. C.K. Bhangoji for the Petitioners.

Ms. S.S. Bhende, AGP for Respondent Nos. 1 and 2.

Mr. S.S. Jinsiwale for Respondent No.3.

Ms. Surekha Sonawane i/by U.H. Deshpande for Respondent No.4.

**CORAM:- ANOOP V. MOHTA AND
A.A.SAYED, JJ.
RESERVED ON:- 28 SEPTEMBER 2015.
PRONOUNCED ON:- 19 OCTOBER 2015.**

JUDGMENT (PER ANOOP V. MOHTA, J.):-

Rule. Rule made returnable forthwith.

Heard finally, by consent of the parties.

2 Petitioner Nos. 1 and 2 have challenged common order dated 28 May 2015 passed by the Scheduled Tribe Certificate Scrutiny Committee-Respondent No.2, invalidating the caste certificates of the Petitioners as belonging to “Thakur-Scheduled Tribe”, issued by the Competent Authority.

3 The case of the Petitioners is as follows:-

i) On 5 January 1924, father of Petitioner No. 1 and real uncle of Petitioner No. 2 admitted in the primary school and on 9 December 1925, father of Petitioner No.2 and real uncle of Petitioner No.1 admitted in the primary school, where their social status was

described as “Thakur”.

ii) On 6 September 1950, by exercise of powers conferred by clause (1) of Article 342 of the Constitution of India, the President was pleased to initially issue the Constitution (Scheduled Tribes) Order, 1950. As far as the then State of Bombay was concerned, the relevant portion is to be found in Part III of the Schedule to the 1950 Order. Entry 21 deals with "Thakur". Clause 2 of the said Order says that the tribes or tribal communities, or parts of, or groups within tribes or tribal communities specified in Parts I to XIV of the Schedule to the Order shall, in relation to the States to which those parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof resident in the localities specified in relation to them respectively in those parts of that Schedule. Thus, so far as the erstwhile Bombay State was concerned, "Thakur" was declared to be Scheduled Tribes.

iii) On 25 September 1956, the Parliament enacted the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1956 amending the Constitution (Scheduled Tribes) Order, 1950

referred to above and the Thakar community was included as Scheduled Tribe for the first time, along with Thakur including Ka-Thakur, Ma-Thakur, Ka-Thakar and Ma-Thakar only in respect of some Talukas of five Districts of the then Old Bombay State. The above position continued even after Bombay Re-organisation Act, 1960.

iv) On 27 July 1977, the Parliament enacted Act No. 108 of 1976 on 18th September, 1976 viz. The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (Act of 1976). The Scheduled Tribes Orders were amended in the manner and to the extent specified in the Second Schedule to Act No. 108 of 1976. In the Second Schedule, Part IX deals with Maharashtra State. Entry 44 in the said Part IX reads as under:-

“44. Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar”

v) On 14 June 1976, Petitioner No. 1 was admitted in the primary school, where his social status was described as “Thakur”. On 1 July 1978, Petitioner No. 2 was admitted in the primary school, where his social status was also described as “Thakur”. On 7 July 1983, the then Competent Authority issued caste certificate to

Petitioner No.1 certifying that Petitioner No.1 belongs to Thakur tribe, which is notified as scheduled tribe under the Constitution (Scheduled Tribes) Order, 1950 as amended from time to time. In the month of July 1993, the tribe claim of the blood brother of Petitioner No. 1 and first cousin of the Petitioners was allowed by the Commissioner, Tribal Development in Appeal filed against the decision of the Scrutiny Committee and thus, held that the caste certificate issued to Shri Vijay Bajirao More is valid.

vi) On 6 October 1994, Petitioner No. 1 joined the services of Respondent No. 3-Maharashtra State Electricity Distribution Company Limited (for short, "MSEDCL") on the post of Operator under reserved category of scheduled tribe.

vii) On 15 November 2000, the statutory caste scrutiny committee at Nashik validated the scheduled tribe-Thakur claim of Shri Rajendra Bajirao More, the real brother of Petitioner No. 1 and first cousin of Petitioner No. 2. On 16 August 2001, the Competent Authority, under the Act issued caste certificate to Petitioner No. 2 certifying that he belongs to Thakur tribe, which is notified as

scheduled tribe under the Constitution (Scheduled Tribes) Order, 1950 as amended from time to time. In the month of November 2003, Petitioner No. 2 joined the services of Respondent No. 4 on the post of Security Guard under reserved category of scheduled tribe. However, for want of caste validity certificate, Respondent No. 4-Municipal Corporation of Greater Mumbai, has been giving him technical break of one day. On 23 February 2004, Respondent No. 3 referred the application in the prescribed form "E" of Petitioner No. 1 for verification, alongwith all necessary and germane documents. In the year 2004, the tribe claim of Petitioner No. 2 was forwarded by Respondent No. 3 to Respondent No. 2-Committee for verification, alongwith various documents as detailed in the impugned order.

viii) On 17 September 2004, the Vigilance Cell recorded the statement of Petitioner No. 2 on the socio-cultural affinity test. The information is consistent with the tribe claimed by the Petitioner. On 22 November 2004, the Vigilance Cell submitted its report after ascertaining the ground reality in relation to documentary evidence, as well as, oral evidence in relation to affinity test in relation to Petitioner No. 2. The report also refers to the crucial fact that tribe

claims of the blood relatives from paternal side have been validated by the different caste Scrutiny Committees. On 7 March 2005, the Vigilance Cell recorded the statement of Petitioner No. 1 on the socio-cultural affinity test. The said information is consistent with the tribe claimed by Petitioner No. 1. However, in the report, there is no whisper about the caste of real sister of Petitioner No. 1 and cousin sister of Petitioner No. 2 as Thakur, Bigar Magas. On 30 April 2005, the tribe claim of Sanket Vijay More, the nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2 was accepted as valid by the statutory Scrutiny Committee, at Nashik. On 18 May 2005, the tribe claim of Dipak R. More, the nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2 was accepted as valid by the statutory Scrutiny Committee at Nashik. On 31 May 2005, the Vigilance Cell submitted its report after ascertaining the ground reality in relation to documentary evidence, as well as, oral evidence in relation to affinity test in relation to Petitioner No. 1. The report also refers to the crucial fact that tribe claims of the blood relatives from paternal side have been validated by the different caste Scrutiny Committees. On 15 June 2005, the tribe claim of Jagdish R. More, the nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2 was accepted

as valid by the statutory scrutiny committee at Nashik. On 11 October 2005, Petitioner No. 1 was heard by the Scrutiny Committee at Nashik, when he has given information in relation to affinity with Thakur, scheduled tribe. Petitioner No. 1 also filed his reply and pointed out merits of his case. On 19 June 2006, the caste Scrutiny Committee at Nashik invalidated the tribe claim of Petitioner No. 1.

ix) On 4 September 2006, the Writ Petition No. 5031 of 2006 filed by Petitioner No. 1, was admitted by this Court and ad-interim relief was also granted in terms of prayer clause (e). On 2 September 2006, the Vigilance Cell submitted its report to the Scrutiny Committee at Nashik on the point of exact relationship with the Petitioners with Dharmendra R. More, whose tribe claim was upheld by this High Court in relation to Petitioner No. 1 and thus, confirmed exact relationship. On 15 September 2006, the Petitioners through their advocate appeared before Respondent No. 2-Committee and pointed out merits of the case. The Petitioner filed written notes of arguments and cited the following authorities:-

- a) Saurabh Dalal vs. State of Maharashtra and ors. (Writ Petition No.8922/2003 decided on 12.07.2006)

b) Balwant Jalgaonkar vs. State of Maharashtra and ors. (Writ Petition No.1372/1989 decided on 24/25 June 2004)

c) Varsha Dhanawat vs. State of Maharashtra and ors.¹

x) On 6 October 2006, this Court allowed Writ Petition No. 5032 of 2006 filed by the real nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2 and directed the Scrutiny Committee to issue caste validity certificate to Dharmendra within a period of two weeks from that date. The Scrutiny Committee was also directed to pay costs of Rs. 1000/- to Dharmendra. On 18 October 2006, the Scrutiny Committee at Nashik invalidated the tribe claim of Petitioner No. 2 as belonging to Thakur, scheduled tribe. In the month of October 2006, the Scrutiny Committee at Nashik issued caste validity certificate to Dharmendra Ramakant More, the real nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2. On 6 February 2007, this Court pleased to issue Rule on Writ Petition No. 7409 of 2006 and continued interim relief till final disposal of the Writ Petition in relation to Petitioner No. 2. In the year 2007, the Apex Court dismissed SLP No. CC 2600 of 2007 filed by Respondent No. 1-

1 2006 (4) MLJ 676

State, against the judgement of this High Court in the case of Dharmendra, the blood relative of the Petitioners.

xi) On 14 October 2010, the Division Bench of this Court allowed Writ Petition No. 7162 of 2010 filed by the real brother of Petitioner No. 1 and cousin brother of Petitioner No. 2 and imposed cost of Rs. 10,000/- on the Scrutiny Committee at Nashik. By the judgement, the Scrutiny Committee was directed to issue caste validity certificate to Ramakant More. On 2 February 2011, the Scrutiny Committee at Nashik issued caste validity certificate to Ramakant, the blood brother of Petitioner No. 1 and first cousin of Petitioner No. 2. On 23 August 2011, the Apex Court allowed Civil Appeal filed by Kum. Amruta Vijay More and directed that the Petitioner's certificate should be re-validated forthwith. On 18 October 2011, the Scrutiny Committee at Nashik issued caste validity certificate to Amruta, the real niece of Petitioner No. 1 and cousin niece of Petitioner No. 2. On 14 September 2012, the Scrutiny Committee at Nashik issued caste validity certificate to Vandana Ramakant More, the real niece of Petitioner No. 1 and cousin niece of Petitioner No. 2. On 30 November 2012, the real brother of Petitioner No. 1 and first cousin of

Petitioner No. 2 filed affidavit and given complete genealogy tree of the family. On the same day, even Amruta More, whose tribe claim was adjudicated upon and determined by the Apex Court, filed an affidavit and furnished genealogy tree showing in unequivocal terms as to how, the Petitioners are her blood relatives from paternal side.

xii) On 11 March 2014, this Court allowed Writ Petition Nos. 5031 of 2006 (*Sanjay Bajirao More v. State of Maharashtra and ors.*) and 7409 of 2006 (*Sharad Gulab More v. State of Maharashtra and ors.*) and remanded the matter to Respondent No. 2 committee to reconsider every aspects of the matter in the light of judgement of this Hon'ble Court in Writ Petition No. 7343 of 2013, decided on 26 February 2014. This Court also observed that the Petitioners are uncles of said Amruta Vijay More, whose SLP was allowed by the Supreme Court. On 26 March 2014, the Petitioners appeared before Respondent No. 2-Committee. On 18 July 2014, the Scrutiny Committee at Nashik forwarded the cases of the Petitioners to Respondent No. 2-Committee in view of change of territorial jurisdiction. On 10 June 2014, the Petitioners requested Respondent No. 2-Committee to consider the effect of grant of 9 caste validity

certificates to the blood relatives of the Petitioner from paternal side. On 28 October 2014, the Petitioners appeared before Respondent No. 2-Committee when, they were examined on the point of affinity test, for which, necessary information was furnished. However, Respondent No. 2-Committee kept the Petitioners in dark and did not inform about the so called school record of the real sister of Petitioner No. 1 and cousin sister of Petitioner No. 2 showing her alleged caste as Hindu Thakur-Bigas Magas. On 6 February 2015, the Apex Court dismissed SLP No. 25000 of 2014 filed by Respondent No. 1-State against the Judgement of this Court in the case of Madhuri Nitin Jadhav Vs. State of Maharashtra & Ors.². On 12 April 2015, since there was deliberate and intentional disobedience of the judgement and order passed by this Court in the case of the Petitioners, the advocate for the Petitioners sent a detailed notice pointing out legal position in relation to the grant of caste validity certificates to the Petitioners and also cited judgement of this Court in the case of Madhuri Jadhav, Apex Court judgement in the case of Kum. Amruta Vijay More, judgement of this Court Dharmendra Ramakant More, Ramakant Bajirao More and order passed by the Apex Court

2 2014 (3) Mh.L.J. 900 : 2014 (4) Bom.C.R. 753

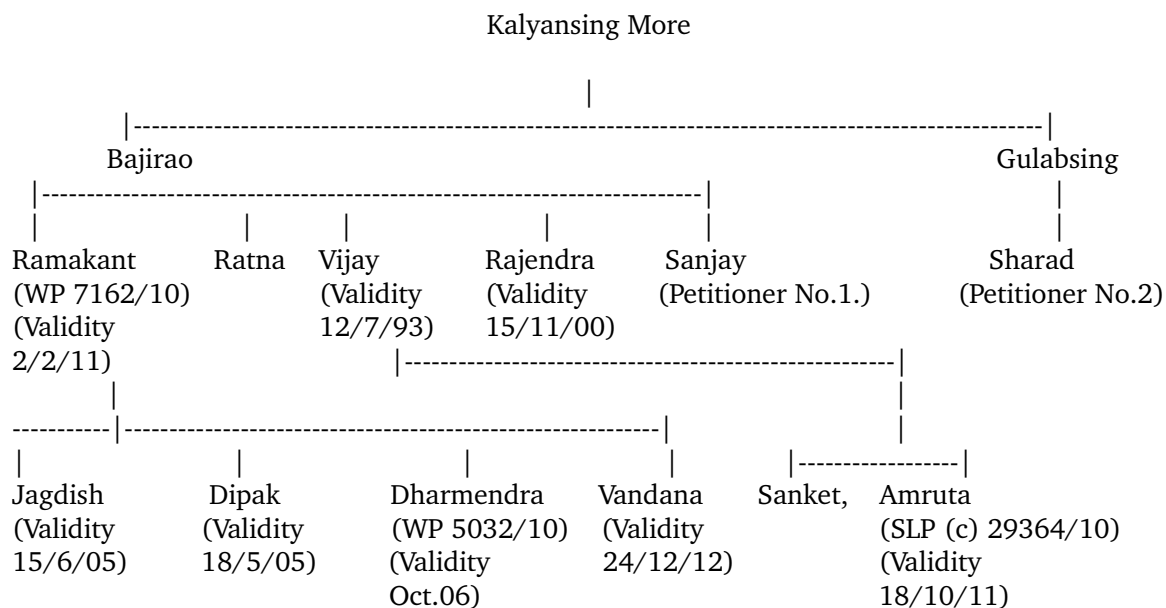
dismissing SLPs filed by Respondent No. 1-State against Shri. Dharmendra, the real nephew of Petitioner No. 1 and cousin nephew of Petitioner No. 2, as well as, SLP filed by Respondent No. 1 against Shri Ramakant, the blood brother of Petitioner No. 1 and cousin brother of Petitioner No. 2. On behalf the Petitioners, reliance was also placed on the most recent judgement of this Court in the case of Pramodkumar Narendrakumar Wagh & Ors. Vs. State of Maharashtra & Anr.³ (Anoop V. Mohta & K. R. Shriram, JJ.). In the month of May 2015, immediately after receipt of the legal notice, Respondent No. 2-Committee got up from the slumber and without appreciating very crucial fact that its two members have already passed an order validating the tribe claims of the Petitioners, passed the impugned order. In June 2015, the Petitioners received the impugned order on 3 June 2015. Immediately, they approached Respondent No. 2 and applied for Records and Proceedings of their cases under RTI Act, which was made available to them on 23 June 2015 after charging prescribed fees. On 29 June 2015, the present Writ Petition is filed.

4 To summarize, the following is the genealogy/genealogical

3 2015(4) ALL MR 502=2015(4) Mh.L.J. 949

tree of the Petitioners:-

GENEALOGICAL TREE OF THE PETITIONERS



5 This Court in Pramodkumar Narendrakumar Wagh (supra). while dealing with the related caste issues, specifically Thakar, referring to earlier Supreme Court, as well as, the High Court Judgments, including Judgment/order passed in the matter of Amruta Vijay More, who is the niece of Petitioner No.1 and cousin of Petitioner No.2, has recorded as under:-

“4 The Hon'ble Supreme Court in *Amruta Vijay More Vs. State of Maharashtra & Ors.* in Civil Appeal No.7230 of 2011 arising out of SLP (c) No.29364 of 2010 observed as under :-

“..... In the instant case, Caste Screening Committee had clearly found father, paternal uncle, brother and paternal cousins of the appellant to belong to Thakur, Scheduled Tribe. Subsequent decision of the screening committee solely on the basis of affinity test, in our view, does not

stand to scrutiny.....”

5 *The Division Bench of this Court (Coram : Anoop V. Mohta & M.S.Sonak,JJ) in Writ Petition No.8987 of 2010 filed by one Priti Komalsingh Thakur observed as under :-*

“.....It is difficult to accept the situation in the society that the caste of the father, two brothers and or other relations are different than as of the son/petitioner, though there may be some material as observed by the scrutiny committee.”

6 *The Division Bench of this court (Coram : Anoop V.Mohta & F.M.Reis,JJ) in the case of Pranav Prakash Mandlik Vs. State of Maharashtra and ors. reported in 2014 (6) Mh.L.J.449, after considering the catena of decisions cited therein, allowed the said Writ Petition and directed the scrutiny committee to issue validity certificate within a period of 2 weeks from the date of receipt of the said order.*

7 *The Division Bench of this Court, Bench at Nagpur (Coram : B.R.Gavai and Smt.Mridula Bhatkar,JJ) after considering the landmark decision in the case of Apoorva Nichale, allowed the Writ Petition No.326 of 2015 on 30.1.2015 filed by the petitioner therein, and passed strictures on the functioning of the scrutiny committee constituted by the State of Maharashtra which is evident from page no.8, para-11. The concerned respondents were also saddled with cost which is evident on page-9, para-13 of the said judgment.”*

and thereby granted prayer clauses to the effect, directing Respondent-Authority to issue certificate as early as possible preferably within eight weeks.

6 The judgment Pramodkumar Narendrakumar Wagh (*supra*) was challenged by the State in the Apex Court vide Special Leave Petition No. 26523 of 2015. After hearing both the parties, by order dated 21 September 2015, the Special Leave Petition was dismissed. The issues, as well as, the observations so made therein against the similarly situated caste contest and the mechanical orders passed by the Caste Scrutiny Committee and specifically para 8, as reproduced below, apart from giving importance to the relatives' certificate while dealing with the matter, have attained finality.

7 The learned counsel appearing for the Petitioners pointed out, by placing on record the Special Leave Petition filed by the State Government, whereby the following grounds were raised in the above Special Leave Petition by the State Government mainly; “(i) *In many decisions, this Hon'ble Court as well as the High Court have dismissed the caste claims of the persons whose near relatives had received validity certificate. Though the said aspect was raised before the High Court, the High Court did not consider the same, (ii) Because, the High Court did not consider the concept of area restriction. It will be necessary to understand the concept of area restriction. As per the said concept the Thakur Schedule Tribe are considered as Scheduled Tribe*

belonging originally from 25 Talukas of five districts, namely; Ahmednagar, Nashik, Pune, Thane and Colaba. Admittedly, the respondents are the permanent residents of Dhule district which do not form part of the 25 Talukas. It was submitted that therefore, the Respondents do not belong to Thakur Schedule Tribe. So also it is necessary to point here out that the area restriction was imposed in the year 1956 and the same was removed in the year 1976. Intention behind removal of the area restriction was that if a tribal migrates from the restricted area, he should not be deprived of from the benefits of the Scheduled Tribe. Admittedly, the respondents are permanent residents of Dhule district and they have not migrated from the above mentioned restricted area; (iii) Because, the High Court did not consider the documentary evidence as well as the vigilance cell report properly. It needs to be considered that the respondents do not match the affinity test with the Thakur Scheduled Tribe. It needs to be seen that the research officer, after conducting the enquiry, found that the respondents do not belong to Thakur Schedule Tribe; (iv) In support of their caste claim, the respondents relied upon school leaving certificates of their grandfather Tulshiram Ghanshyam Thakur and cousin grandfather Shankar Ghanshyam Thakur. The entry of caste shows the caste as Thakur and

not the Thakur Schedule Tribe. The school leaving certificate of Shankar Ghanshyam Thakur shows date of admission in the school as 4.6.1929 and the school leaving date as 2.4.1937. The school leaving certificate of Tulshiram shows date of admission as 10.6.1930 and the school leaving date as 5.10.1942. So also the respondents relied upon the school leaving certificate of their father Nana @ Narendrakumar Wagh. The school leaving certificate of Nana @ Narendrakumar Wagh mentions the caste as Hindu Thakur. The date of admission was 2.6.1959 and the date of school leaving was 30.5.1966. The High Court should have seen that not a single document mentions the caste as Thakur Scheduled Tribe; (v) Because, the High Court should have considered an important aspect which has wide ramifications. If this judgment is not interfered with, many persons who do not belong to Thakur Scheduled Tribe may take disadvantage of the impugned judgment and they may get validity certificates by improper way as if they belong to Thakur Scheduled Tribe.”.

We have quoted the grounds raised above to understand the submissions and the issues raised by the learned AGP for the State Government and their officers, including respective Caste Scrutiny Committee. In spite of the specific submission about the “area

restriction” and other grounds so raised, as quoted above, the SLP was dismissed.

8 The importance of the caste claim and/or certificate/validity certificate just cannot be overlooked by any person as it affects not only to the Petitioners, but also future generations to come. The Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000 (for short, “the Caste Certificate Act”) and Rules made thereunder have given importance to the Caste Certificate/Caste Validity Certificate of the paternal side family members. The Caste Scrutiny Committee, therefore, based upon then existing provisions and the material available, has granted such Caste Certificate/Validity Certificate to one of the paternal side family member. Unless the said Certificate is set aside and/or declared null and void by the Competent Court/Authority, based upon mere allegations, the Caste Scrutiny Committee is under legal obligation not to disrespect such Caste Scrutiny Committee Validity Certificate and on the contrary, bound to grant the Caste Validity Certificate, in accordance with law to such claimant. The caste claim of the person,

unless case is made out of fraud and misrepresentation, the Scrutiny Committee cannot re-open and/or disregard the Caste Validity Certificate already issued to the paternal relatives. There is no such case of fraud or misrepresentation. On the contrary, there are consistent orders passed in favour of Petitioners' paternal relatives and even confirmed by the Supreme Court and the High Court.

9 There cannot be any issue that if the case is made out including of fraud and/or misrepresentation, the State and/or its Officers at the time of passing order, and/or re-appraising and/or re-assessing the evidence and material placed on record, needs to give full opportunity to all the concerned.

10 We have already declared the same, time and again and in the matter of Madhuri Nitin Jadhav (supra) (*Anoop V. Mohta & A.A. Sayed, JJ.*), the Judgment, which is also not interfered in the Special Leave Petition filed by the aggrieved party. It is necessary to mention that in that Judgment also we have dealt with in detail, the importance of relatives' certificate and the issue of “restricted area”. The State Government, inspite of this Judgment, which is not

interfered with by the Supreme Court as recorded above, re-agitated the same issues and the grounds which are ultimately resulted into the rejection, as the Special Leave Petition as recorded above, was also dismissed.

11 We have already noted the following points for consideration in such situation and observed in Devram Laxman Bhoir Vs. The State of Maharashtra & Ors.⁴ (Anoop V. Mohta & M. S. Sonak, JJ.) as under:-

“14 The Scrutiny Committee/Authority therefore, required to take note of various doctrines including of “the precedent” “obiter-dicta”, “ratio decidendi”, “estoppel”, “acquiescence”, “waiver” and “res-judicata”, apart from natural justice, fair play and equity. All those principles are necessary to follow, as in most of the caste scrutiny matters, various Supreme Court Judgments and the Judgments of the High Court are read and referred, for and against the issues so raised. Therefore, considering their scope and limitation, being quasi-judicial Authority but, at the same stroke, as it decides the caste claim and the important rights of the parties, the Authority/Caste Scrutiny Committee, just cannot overlook those doctrines, before passing any reasoned order/ judgment.

15 In case of fraud and/or misrepresentation more detailed inquiry and scrutiny is necessary. Mere averments of fraud and/or misrepresentation itself are not sufficient. One who alleges fraud and/or

4 2014 (4) Mh. L. J. 626

misrepresentation, including the complainant, required to placed on record the supporting materials to justify their defence/objection. In case, the fraud or misrepresentation is detected and/or proved, section 10 contemplates specific provisions which required to be followed by the concerned. They are under obligation and duties to pass reasoned order within the framework of law and record and the judgments so declared from time to time, apart from above basic principles. They are also under obligation to finalize the inquiry/report, as early as possible to conclude the caste claim to avoid further complications and/or delay in the matter.”

12 **It is necessary to make the following observations before the final order:-**

- (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 (Supra) and Pramodkumar N. Wagh (supra) 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 re-considered inspite 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.

13 We have already observed in Pramodkumar N. Wagh (supra) and re-observe as follows in this matter also:-

“8 The respondents filed a reply and resisted the petitioners’ claim in every aspect by referring to other judgments and by overlooking the judgments so cited above mainly on the ground that the scrutiny committee has power

and the authority and as need to appreciate each and every case on its own merits. There cannot be issue on this point. But in a situation where relatives' caste validity certificate having been granted on the basis of orders passed by this court and the Supreme Court, the scope and authority of Scrutiny Committee in such matters is very limited. Law nowhere permits them to reopen and re-appreciate the material by overlooking the conclusions so drawn in favour of relatives. This is not the case where any allegations and/or material and/or even observation made at any point of time that the petitioners' relatives have committed any fraud and/or mis-representations while getting those validity certificate that they belong to Thakur community. There is nothing on record to show that even the respondents have challenged those validity certificates on this ground. Therefore, we are inclined to observe that the Scrutiny Committee by passing such orders by overlooking the orders passed by this Court as well as Supreme Court, definitely disrespecting the conclusions so drawn by the court. Such attitude, in our view, is deprecated. This is not the case where even the relations are in dispute. The State Government, in our view, required to take steps against such Scrutiny Committee and/or officers who are passing such orders by overlooking the judgments passed by the Supreme Court and this courts directly on the issues after taking into consideration the relatives' caste validity certificates. Appropriate circular and/or direction is required to be issued in this regard so that it will save time and energy of every one including of Courts.

(Emphasis added)

13-A) We have observed reiterated and compiled above position of law based upon earlier Supreme Court and High Court Judgments, so that Caste Scrutiny Committee will take note of above principles before rejecting and/or allowing any caste case/claim. This is also to

avoid multiplicity of the proceedings, apart from taking effective decision on the issues.

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

ORDER

- (a) The Petition is allowed in terms of prayer clauses (a) and (b).
- (b) Rule made absolute accordingly. No costs.
- (c) It is made clear that the Respondent-Authority to issue caste validity certificate, as early as possible, preferably within eight weeks.

(A.A.SAYED, J.)

(ANOOP V. MOHTA, J.)