

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 5938 OF 2011**

Shri Sahadev Nagnath Yelgulwar,
Aged 49 years, residing at
122, Joshiwadi, Magan Nathuram Road,
Juna Kurla, Mumbai-400 070.

....Petitioner.

Vs.

1 State of Maharashtra
Through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai-402 032.

2 Scheduled Tribe Certificates
Scrutiny Committee, Pune
Division Pune, through its
Member Secretary having its
Office at 28, Queen's Garden,
Pune-411 001.

3 Maharashtra State Road
Transport Corporation through
Its General Manager (I.R. & P)
Having its office at Vahatook Bhavan,
Dr. Anandrao Nayar Marg,
Mumbai Central,
Mumbai-400 008.

4 Tahasildar and Executive
Magistrate, North Solapur,
Dist. Solapur.

....Respondents.

Mr. R.K. Mendadkar a/w Ms. Helen Koli and Mr. C.K. Bhangoji for the
Petitioner.

Ms. S.S. Bhende, AGP for Respondent Nos. 1, 2 and 4.

Mr. C.M. Lokesh i/by Mr. G.S. Hegade for Respondent No.3.

**CORAM : ANOOP V. MOHTA AND
K.R. SHRIRAM, JJ.
DATE : 30 APRIL 2015.**

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

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

2 The Petitioner has challenged impugned order dated 30 April 2011, passed by the Scheduled Tribe Certificate Scrutiny Committee, Pune-Respondent No.2, whereby his caste validity certificate i.e. being belongs to “Mahadeo Koli”, has been rejected by overlooking the Caste Validity Certificates granted to the other relatives, including the paternal side, though placed on record and though noted.

3 On 24 July 1990 the Petitioner was appointed by Respondent No.3 under reserved category of Scheduled Tribe on the post of Clerk. On 1 August 2001, Respondent No.3 referred the case of the Petitioner to Respondent No.2-Caste Scrutiny Committee for

verification.

4 The Petitioner, from time to time submitted the documents to Respondent No.2-Committee, including Primary School Leaving Certificate of his father Nagnath Yelgulwar, and other relatives. The Petitioner also submitted the Caste Validity Certificates issued to Kum. Bhavana Vishnu Yelgulwar, who is paternal blood relative of the Petitioner, Swati Balaraj Yelgulwar who is daughter of real brother of Petitioner, Tarun Balaraj Yelgulwar, Nachiket Devendrakumar Yelgulwar, Yatish Devendrakumar Yelgulwar who are sons of real brother of the Petitioner and Pawankumar Prakash Yelgulwar, the blood relative of the Petitioner.

5 On 7 February 2002, Respondent No.2 issued show cause notice dated 4 February 2002 along with Enquiry Report dated 13 December 2001 and directed the Petitioner to file his reply. On 21 February 2002 the Petitioner filed detailed reply.

6 Considering the undisputed position on record, including the caste validity certificates of the relatives so offered to Deepak

Sadashiv Yelgulwar dated 13 April 2005, Manoj Prakash Yelgulwar dated 18 May 2005, Yuvraj Manohar Yelgulwar dated 4 May 2005 and Shashibhushan Prakash Yelgulwar dated 18 May 2005 and despite basic and fundamental documents of the year 1946 and despite clear constitutional adjudication rendered by this Court in exercise of its powers under Article 226 of the Constitution of India in the case of Kum. Bhavana Vishnu Yelgulwar, who is blood relative of the Petitioner as defined under Rule 2(f) of the Caste Certificate Rules, Respondent No.2 Committee in arbitrarily invalidated the Caste Certificate of the Petitioner, which in our view, is unsustainable. Respondent No.2 is wrong in rejecting the claim of Caste Validity Certificate of the Petitioner.

7 The Supreme Court in Amruta Vijay More Vs. State of Maharashtra & Ors. (Civil Appeal No. 7230 of 2011) dated 23 August 2011 held as under:-

“8..... 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.....”

and observed that the validity certificate issued to the relatives needs

to be appreciated while considering the caste claim of the other blood relatives.

8 This Court (Coram : Anoop V.Mohta & M.S.Sonak,JJ) also in Priti Komalsingh Thakur Vs. The State of Maharashtra & Ors. (Writ Petition No. 8987 of 2010) dated 30 April 2014 observed as under :-

“6.....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.”

9 We have also in various matters, including Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee & Ors.¹, Pranav Prakash Mandlik Vs. State of Maharashtra & Ors.² and recently in Pramodkumar Narendrakumar Wagh & Ors. Vs. State of Maharashtra & Ors. (Writ Petition No. 9356 of 2014) on 23 April 2015, in a similar situated matters, after considering the Caste Validity Certificates of the relatives and as there is no case of fraud and/or misrepresentation is made out, granted the reliefs so prayed for by the Petitioners.

1 2010 (6) Mh.L.J. 401

2 2014(6) Mh.L.J. 449

10 In view of above, we are inclined to pass the following order :-

ORDER

- a) Writ Petition is allowed in terms of prayer clauses (a) and (b).
- b) Rule made absolute accordingly.
- c) There shall be no order as to costs.
- d) It is made clear that Respondent No.2 to issue Caste Validity Certificate to the Petitioner, as early as possible, preferably within 8 weeks from today.

(K.R. SHRIRAM, J.)

(ANOOP V. MOHTA, J.)