

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.5769 OF 2014

Kalu s/o Ramdas Patil
Age 57 years, Occu. Agril.,
R/o Sub-Gavhan (Pra.)
Tq. Parola, Dist. Jalgaon ... PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary,
Social Justice & Special Assistance
Department, Mantralaya, Mumbai
(Copy to be served on G.P.,
High Court of Bombay,
Bench at Aurangabad)
2. The District Collector, Jalgaon.
3. Caste Certificate Scrutiny Committee,
Nashik Division, Committee No.2,
Dhule, Head Office at Dhule.
4. Caste Certificate Scrutiny Committee,
Nashik Division, Nashik
5. Bhatu s/o Ganjidhar Patil,
Age 44 years, Occu. Agril.,
R/o Sub-Gavhan (Pra.)
Tq. Parola, Dist. Jalgaon. ... RESPONDENTS

.....
Shri A.N. Nagargoje, Advocate for petitioner
Shri S.K. Kadam, A.G.P. for State
Shri V.P. Patil, Advocate for respondent No.5
.....

CORAM: R.M. BORDE AND
 A.I.S. CHEEMA, JJ.

DATED: 9th February, 2016.

ORAL JUDGMENT (Per R.M. Borde, J.):

1. Heard. Rule. Rule returnable forthwith. With the consent of learned counsel for the parties, the petition is taken up for final disposal at admission stage.

2. The respondent No.5 claims to belong to Kunbi caste which is included in O.B.C. category. Since the respondent No.5 contested the elections for Village Panchayat during the term commencing from 2003, a caste certificate secured by him on 1.1.2003, certifying that he belongs to Kunbi caste, which is included in OBC category, was referred for verification to the Caste Scrutiny Committee, Nasik. The Scrutiny Committee, Nasik, in observance of the procedure prescribed under law, conducted the proceedings and directed invalidation of the caste certificate issued in favour of the respondent No.5 by order dated 16.11.2005. The order passed by the Scrutiny Committee was subjected to challenge in Writ Petition bearing No.8484/2005 presented by respondent No.5. The Writ Petition was decided by the Division Bench of this Court on 14.9.2006 and the order impugned in the said petition, passed by the Scrutiny Committee,

directing invalidation of the caste certificate issued to the respondent No.5 was quashed and set aside and the matter was remitted back to the Scrutiny Committee, Nasik for fresh decision.

3. We have perused the record maintained by the Scrutiny Committee, Nasik and it transpired on scanning the record that the respondent No.5 caused appearance before the Scrutiny Committee on 4.11.2006 and notice was directed to be issued to the complainant by the Scrutiny Committee. Several dates were prescribed in the matter and the Scrutiny Committee, on 12.9.2007, recorded statement of respondent No.5 and reserved the matter for decision.

4. The Scrutiny Committee, however, does not appear to have delivered judgment in the matter and the verification claim in respect of validation of the caste certificate issued in favour of respondent No.5 on 1.1.2003 by the Sub-Divisional Magistrate, Amalner is still pending. It thus appears that, by 2007, the elected term of the respondent No.5 as a member of the Grampanchayat was over and as such, probably he was not interested in the matter in respect of verification of the caste certificate.

5. During the next term of the Village Panchayat, the respondent No.5 remained away from the political contest. However, on the eve of elections in the year 2012, the respondent No.5 tendered an application for issuance of a fresh caste certificate to the Sub-Divisional Magistrate, Amalner, which was issued to him, certifying that he belongs to Kunbi caste, which is included in OBC category, on 4.12.2012. On the strength of the certificate issued to the respondent No.5, he contested the elections for the post of Member of the Village Panchayat and was declared as a returned candidate. The fresh certificate secured by the respondent No.5 in the year 2012 was tendered for verification by him along with the proposal on 5.12.2012. The respondent No.5 did not disclose to the Committee the factum of receipt of earlier certificate and the order of invalidation issued by the Scrutiny Committee in respect of the said earlier certificate. The respondent No.5 also did not disclose the factum of pendency of verification claim in respect of the earlier certificate issued to him before the Scrutiny Committee, Nasik in pursuance to the order of remand passed by the High Court in the Writ Petition presented by him. However, he proceeded with the matter in respect of verification of the second certificate secured by him on 4.12.2012 and persuaded the Committee to issue validation certificate.

6. The Scrutiny Committee also surprisingly, without recording any reasons and without scanning or making any enquiry as regards to antecedents of the respondent No.5, in relation to verification of the caste certificate, proceeded to pass an order disregarding the directives issued by this Court that the certificate of scrutiny shall be issued only after recording reasons in support of the claim. The order passed by the Scrutiny Committee is bad in law for the reason that the Scrutiny Committee did not record the reasons and without proper verification of the record, proceeded to issue validation certificate.

7. In normal circumstances, we would have remitted the matter back to the Scrutiny Committee for re-examination. However, dishonest and fraudulent conduct of the respondent No.5 does not entitle him to claim any relief in equity jurisdiction exercisable by this Court. The respondent No.5 was well aware that he had secured a caste certificate from the Sub-Divisional Magistrate, Amalner in 2003, which was produced for verification before the Scrutiny Committee, Nasik and that the Scrutiny Committee, Nasik has delivered a judgment directing invalidation of his caste certificate. Not only this, the respondent No.5 challenged the order directing invalidation of the caste certificate by the Scrutiny Committee by presenting Writ Petition bearing

No.8484/2005 before this Court. The Writ Petition presented by the respondent No.5 was allowed by the Division Bench of this Court on 14.9.2006 and the order passed by the Scrutiny Committee, Nasik, dated 16.11.2005 was quashed and set aside and the matter was remitted to the Scrutiny Committee.

8. After remand of the matter to the Scrutiny Committee, Nasik, the respondent No.5 participated in the enquiry proceedings and led his evidence. The respondent No.5 was represented by an Advocate, who cross-examined the complainant/ petitioner in the instant petition, in the proceedings for verification before the Scrutiny Committee, Nasik. After the matter was closed for evidence in the year 2007, the respondent No.5 did not pursue the matter nor requested the Scrutiny Committee to take decision. However, the respondent No.5 dishonestly secured fresh certificate in the year 2012 for purposes of contesting elections to the Village Panchayat.

9. The certificate which was obtained at a later point of time by respondent No.5 in 2012 was produced for verification to the Scrutiny Committee, Dhule and the respondent No.5, without disclosing to the Scrutiny Committee that the earlier claim in respect of verification of the caste certificate secured by him in the year 2003 is pending at the stage of rendering decision

before the Scrutiny Committee, Nasik, persuaded the another Committee i.e. the Scrutiny Committee, Dhule to issue validation certificate to him. This dishonest conduct of the respondent No.5 disentitles him from claiming any favourable order. The respondent No.5 is prima facie guilty of committing an offence within the contemplation of Section 11 of 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.

10. We direct the Scrutiny Committee, Dhule to take appropriate action against respondent No.5 within contemplation of Section 11 of 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. The respondent No.5 is liable to be stripped off all the benefits secured by him on the basis of false certificate. The second caste certificate secured by the respondent No.5 in the year 2012, suppressing the relevant facts, shall have to be branded as a false certificate and as such, all the benefits secured by respondent No.5 shall be withdrawn and it is directed to the Caste Scrutiny Committee, Dhule to take steps to withdrawal of

the benefits secured by the respondent No.5 on the strength of the caste certificate and the caste validation certificate secured by him from the Sub-Divisional Officer and the Scrutiny Committee respectively.

11. It is noticed that, the Scrutiny Committee, Nasik has initiated criminal proceedings against the respondent No.5 by lodging a crime bearing No.153/2005 with regard to earlier certificate dated 1.1.2003. The proceedings in that respect may continue.

12. Rule is accordingly made absolute. There shall be no order as to costs.

(A.I.S. CHEEMA, J.)

(R.M. BORDE, J.)