

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10958 OF 2015

Dnyandeep Dhansing Mahajan,
age: 35 years, Occ: service,
R/o B-302, Vishnu Apartment,
Plot No.C-16, Sector A, Airoli,
Navi Mumbai – 400 708.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.

02 The Divisional Caste Certificate
Verification Committee No.2,
Dhule, District Dhule.

Respondents

Mr.Y.B.Bolkar, advocate for the petitioner.
Mr.V.M.Kagane, A.G.P. for Respondents.

**CORAM : R.M.BORDE &
A.I.S.CHEEMA, JJ.
DATE : 22nd February, 2016**

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

1 Heard. Rule. Rule made returnable forthwith and
heard finally by consent of learned Counsel for respective parties.

2 Petitioner is objecting to the order passed by the
Scrutiny Committee on 20.05.2015 directing invalidation of caste
certificate issued in favour of the petitioner.

3 Petitioner claims to belong to Rajput Bhamta, which is

included in Nomadic Tribes' category. Since the petitioner is in employment, caste certificate, issued in his favour, came to be referred to the Scrutiny Committee for verification. The Scrutiny Committee, after calling for the report from Vigilance Cell and on consideration of documentary evidence placed on record by the petitioner, was not satisfied as regards the claim put forth by him and as such, by order dated 20.05.2015, directed invalidation of caste certificate issued in favour of the petitioner.

4 Petitioner, in order to substantiate his claim, has placed reliance on the validity certificate issued in favour of his real elder brother by name Umesh Dhansing Mahajan. The Scrutiny Committee has discarded the evidence merely on the ground that same is not sufficient for granting validity certificate in favour of the petitioner; and that the petitioner has failed to place on record documentary evidence prior to 1961.

5 We have perused the record in respect proposal for verification of caste certificate of Umesh Dhansing Mahajan, real elder brother of the petitioner. The Scrutiny Committee passed a reasoned order while directing issuance of validity certificate in favour of Umesh. The evidence, which forms part of instant matter, was also before the Scrutiny Committee while verification claim of real brother of the petitioner was considered. We do not find as to why the Scrutiny Committee shall take a different view in the instant matter.

6 It is not pointed out that the petitioner has placed reliance on any forged or fabricated documentary evidence for

substantiating his claim or has secured the caste certificate by fraud or misrepresentation. The Scrutiny Committee, in spite of holding favourable in favour of real brother of the petitioner, has refused to consider claim of the petitioner for issuance of validity certificate.

7 In the facts and circumstance, reliance can be conveniently placed on the reported judgment of Division Bench of this Court in the matter of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Scrutiny Committee No.1 and others**, reported in 2010 (6) MhLJ 401. The Division Bench of this Court, in the matter arising out of similar facts and circumstances, has observed that:

“... The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order.”

8 In the instant matter, it has not been pointed out that the validity certificate issued in favour of elder brother of petitioner was obtained by fraud. In this view of the matter, a different view on same facts would not entitle the committee dealing with subsequent caste claim to reject it. Since brother of the petitioner

has been granted validity certificate and it has not been demonstrated that said certificate has been secured by practising fraud, it was not open for the Scrutiny Committee to refuse to issue validation certificate in favour of the petitioner.

9 In another judgment delivered by Division Bench at Nagpur in the matter of Siddheshwar s/o Ramkisan @ Ramkrushna More Vs. The Divisional Caste Certificate Scrutiny Committee No.2, Akola in **Writ Petition No.326 of 2015** and other companion petitions, it is observed in paragraph No.11 of the judgment, thus:

11 We have ample experience of the Scrutiny Committee, time and again it is found that in spite of remand and in spite of direction by the Court to consider the validity certificate of the blood relatives, the Scrutiny Committee goes on repeating the same orders and goes on invalidating the claims of the petitioners by ignoring not only the validity certificate granted in favour of the close relatives, but also in ignorance of the law laid down by this Court in the case of Apoorva Vs. D.C.C.S. Committee cited supra.

12 The Division Bench has also observed in paragraph 16 of the judgment that since approach of the Scrutiny Committee in the aforesaid matter is anyhow to harass the applicants before it and go on denying the claim of eligible candidates and also pass the orders in ignorance of the law laid down by this Court in the case of **Apoorva Vs. D.C.C.S. Committee**, cited supra, the Court deemed it necessary to issue notice of contempt to the members of the Scrutiny Committee. The Court, thus, is of the opinion that

non observance of the law laid down by this Court by the Committee is nothing short of committing contempt.

13 For the reasons recorded above, we deem it appropriate to quash and set aside the order passed by the Scrutiny Committee impugned in the instant petition and same is accordingly quashed and set aside. The Scrutiny Committee is directed to issue validation certificate in favour of petitioner within a period of four weeks from today.

14 Rule is accordingly made absolute. No costs.

A.I.S.CHEEMA
JUDGE

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R.M.BORDE
JUDGE