

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8105 OF 2014

Sharad S/o Madhav Shirsath,
age: 21 years, occu: student,
R/o R-215, Tornagad Nagar,
N-2 Cidco, Aurangabad

Petitioner

Versus

1 The State of Maharashtra
Through its Secretary,
Department of Social Welfare
Mantralaya, Mumbai -32

2 The Divisional Caste Verification
Committee No.1, Aurangabad division,
Aurangabad

Respondents

Mr. K.F. Shingare advocate for the petitioner
Mr. V.M. Kagne, AGP for Respondent No.1 and 2

CORAM : R.M. BORDE &
K.L. WADANE, JJ

(Date : 8th August, 2016.)

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties taken up for final

decision at admission stage.

3 The petitioner claims to belong to Kunbi caste, which is included in other backward class category (OBC). At the request of the petitioner, he was issued a caste certificate, certifying that, he belongs to Kunbi caste by the Sub Divisional Officer, Mehekar on 25.9.2009. The caste certificate issued to the petitioner was referred for verification to respondent No.2 scrutiny committee in the year 2010-2011. The scrutiny committee has, however, after considering evidence placed on record, directed invalidation of the caste certificate issued to the petitioner.

4 The scrutiny committee has recorded adverse finding mainly for the reason that in the school record of the father of the petitioner his caste is recorded as Maratha and not Kunbi. The petitioner places reliance on his own school record and the school record of his sister, wherein entry in respect of caste has been recorded as Kunbi. He also places reliance on the caste validation certificate issued to his cousin Ramkisan Gulabrao Shirsath. Entry recorded in the revenue/record in respect of agricultural property belonging to grand father of the petitioner also reflects his caste as Kunbi. The petitioner also places reliance on the caste validation certificate issued in favour of one Rajiv Bhagwan

Shirsath who is claimed to be a near relation of the petitioner.

5 We have perused the Judgment & order passed by the scrutiny committee. The scrutiny committee has refused to place reliance on the evidence in the nature of revenue entry in the name of grand father of the petitioner on the ground that, the petitioner has failed to establish his relationship with him. The scrutiny committee came to the conclusion that, in view of the adverse entry in the school record of the father of the petitioner, he is not entitled to claim validation certificate. The scrutiny committee, however, has not considered the evidence in the form of caste validation certificate issued to the cousin brother of the petitioner. An affidavit of Madhav, the father of the petitioner has been placed on record, wherein, he has recorded genealogy of the family. The real brother of Madhav is one Gulab and validity holder Ramkisan is his son. Apart from this, the petitioner has placed on record copy of the caste validation certificate issued in favour his real sister Pooja Madhav, by the scrutiny committee at Akola on 24.4.2015. Since the real sister of the petitioner has been issued validation certificate by the competent authority, there is no reason as to why claim raised by the petitioner for issuance of validation certificate should be turned down.

6 Reliance is 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."

7 Similarly, taking note of the judgment in the matter of **Apoorva** (cited *supra*), the Division Bench of this Court at Nagpur, in the matter of **Mayur Shamrao Nannaware Vs. Scheduled Tribe Caste Certificate Scrutiny Committee & others**, reported in 2014 (4) Bom.C.R. 730, has observed in paragraph 9 of the judgment, that the Caste Scrutiny Committee is a quasi judicial authority constituted under the Maharashtra

Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance of Verification of Caste Certificate Act, 2000, and the Scrutiny Committee cannot give a go bye to the law laid down by the Hon'ble Supreme Court and this Court on the issues which fall for consideration before the Caste Scrutiny Committee. It has also been observed by the Division Bench that, it has been repeatedly said in several judgments that if the Caste Validity Certificate is issued in favour of father, brother, sister, real blood relatives, then the Caste Validity Certificate should be issued to the candidate unless the Caste Scrutiny Committee comes to a definite view that the earlier Caste Validity Certificate in respect of near blood relatives are obtained by submitting forged and fabricated documents and/or obtained by misrepresentation.

8 In the instant matter, it has not been demonstrated that the petitioner has relied on any false, fabricated document or has misled committee for substantiating the claim.

9 In view of the decision cited supra, we are of the considered opinion that the claim of the petitioner for issuance of validation certificate, ought to be considered favourably.

10 In view of above, the order passed by the scrutiny committee on 13.2.2012 invalidating the caste certificate issued to the petitioner is quashed and set aside and respondent No.2 is directed to issue the caste validation certificate to the petitioner as expeditiously as possible and preferably within a period of eight months from today.

11 Rule is made absolute in above terms.

12 There shall be no order as to costs.

(K.L. WADANE, J)

(R.M.BORDE, J)