

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

WRIT PETITION NO. 9957 OF 2014

Ghanshyam s/o Jankiram Patil
age 26 years, occ. Student
r/o Chameli Nagar, Wanjola Road,
Bhuswal, Tq. Bhusawal
Dist. Jalgaon

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary
Social Welfare Department,
Mantralaya, Mumbai 32.
2. The Divisional Caste Certificate
Verification Committee No. 2, Dhule
District Dhule.
3. The North Maharashtra University
Jalgaon, Dist. Jalgaon
Through its Registrar.

.. RESPONDENTS

Mr. Y.B. Bolkar, advocate for petitioner.
Mr. S.S. Dande, AGP for the State.
Mr. G.D. Jain, advocate holding for Mr. A.B. Girase, advocate for respondent
no. 3.

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**CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ.
DATE : 12th JANUARY, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.
3. Petitioner is objecting to the order passed by the Scrutiny Committee

on 02.07.2014 directing invalidation of his caste certificate. Petitioner claims to be belonging to Rajput Bhamta caste. Certificate issued in his favour certifying that he belongs to Nomadic Tribe category came to be referred to the Scrutiny Committee for verification. Petitioner has secured admission to professional course as against the seat earmarked for Nomadic Tribe category. Scrutiny Committee, on consideration of the Vigilance Cell report and after extending an opportunity of hearing to petitioner, was not satisfied as regards the claim put forth by him and, in view of order issued on 02.07.2014, directed invalidation of caste certificate issued in favour of petitioner.

4. Petitioner, in order to substantiate his claim, has placed reliance on the validation certificate issued in favour of his real elder brother by name Deepak. The Scrutiny Committee has discarded evidence in the form of validation certificate issued in favour of the real elder brother of petitioner observing that the entry in respect of uncle of Deepak records his caste as Hindu Rane Rajput. It is also observed by the Scrutiny Committee that while dealing with the claim of brother of petitioner, no documentary evidence of the year prior to 1961 was produced by the said validity holder.

5. In order to verify the observations made by the Scrutiny Committee, we called upon respondents to submit record in respect of validation of caste certificate issued in favour of Deepak Patil i.e. real elder brother of petitioner. The Scrutiny Committee has recorded a reasoned order while directing validation of caste certificate issued in favour of Deepak. Apart

from documentary evidence produced on record supporting the claim of Deepak, reliance was placed by him on validation certificate issued in favour of one Naina Gajmal who is said to be cousin sister of validity holder. Scrutiny Committee accepted evidence in the form of validation certificate issued in favour of cousin sister of Deepak and proceeded to direct validation of caste certificate. We do not find any reason as to why the subsequent committee shall take a different view.

6. It is not established that petitioner has relied upon any forged or fabricated document nor it has been pointed out that he has suppressed any evidence. Evidence in the form of school leaving certificate of uncle of petitioner which records the contra entry was placed before the Committee while considering validation claim of Deepak, real brother of petitioner. The Committee, inspite of singular contrary entry, proceeded to direct validation of the caste certificate of Deepak. We do not find any reason as to why the Scrutiny Committee shall place reliance on the said contrary entry in the instant matter and refuse to uphold the claim of petitioner.

7. In this context, the judgment of Division Bench of this Court in the matter of Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others reported in **2011(2) Bom.C.R. 824** needs to be considered. The Division Bench has observed in paragraph 9 of the judgment as below :

9. 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.....

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 the brother of 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 petitioner.

8. 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. 326/2015 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.

The Division Bench has also observed in paragraph 16 of the judgment that the approach of the Scrutiny Committee in the aforesaid matter is anyhow to harass the applicants before it and go on denying the claim of the eligible candidates and also pass the orders in ignorance of the law laid down by this Court in the case of Apporva 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 the High Court by the Committee is nothing short of committing contempt.

9. 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 the same is accordingly quashed and set aside. The Scrutiny Committee is directed to issue validation certificate to petitioner within a period of four weeks from today. Rule is accordingly made absolute. No costs.

(A.I.S. CHEEMA)
JUDGE

dyb

(R. M. BORDE)
JUDGE