

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.464 OF 2013

Mr. Mujawar Rafiq

...Petitioner

Versus

The State of Maharashtra

...Respondent

...

Mr. R.V. Bansode for the Petitioner.

Mrs. M.P. Thakur, AGP for the Respondent Nos.1, 2, 4 and 7.

Mr. G.K. Gole for Respondent No.6.

Mr. P.K. Dhakephalkar, Senior Advocate i/b. Mr. R.K. Mendadkar & Mr. Narayna Sahu for Respondent No.8.

CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 22nd SEPTEMBER , 2016.

P. C. :

Heard Mr. Bansode, the learned counsel for the Petitioner and Mr. Dhakephalkar, the learned senior counsel for the Respondent No.8.

2. By this petition the Petitioner is challenging the order dated 29th December, 2012 passed by the Respondent No.4- Caste Scrutiny Committee. By the said order the caste claim of Respondent No.8 , belonging to Dhavad-OBC community was upheld. Mr. Bansode, the

learned counsel for the Petitioner submitted that earlier by order dated 25th January, 2012, Respondent No.4- Caste Scrutiny Committee negatived the claim of the Respondent No.8 that he belongs to Muslim (Dhavad) community, which is notified as OBC and this order was challenged by the Petitioner by filing writ petition No.2025 of 2012. Mr. Bansode submits that the Division Bench of this Court by order dated 15th October, 2012 set aside the said order dated 25th January, 2012 and remanded the matter to the Caste Scrutiny Committee for fresh disposal from the stage of inviting fresh vigilance cell report. He further submits that though the Respondent No.8's caste claim was to be considered by Respondent No.4 Caste Scrutiny Committee afresh from the stage of initiating fresh Vigilance Cell Report, the Respondent No.4 permitted the Respondent No.8 to produce fresh documents. He has submitted that the fresh documents produced by the Respondent No.8 could not have been considered. Mr. Bansode, the learned counsel for the Petitioner submitted that the documents relied upon by the Respondent No.8 do not support his claim that he belongs to the 'Dhavad' community, notified as OBC. Lastly, the learned counsel for the Petitioner submits that the impugned order is illegal and therefore requires to be quashed and set aside.

3. Mr. Dhakephalkar, the learned senior counsel for Respondent No.8 opposed the petition vehemently. He submitted that after the order was passed in Writ Petition No.2025 of 2012, a fresh enquiry was conducted by vigilance cell and thereafter report was filed before the Caste Scrutiny Committee. The documents which are referred to by the Caste Scrutiny Committee were already produced before the vigilance cell. He therefore submits that the petition is devoid of any merits.

4. We have considered the rival submissions. We have also perused the documents relied upon by the Respondent No.8 as well as the impugned order passed by the Respondent No.4- Caste Scrutiny Committee. The Respondent No.8 had produced birth certificate extracts of his uncles Gani and Shabir, which are at page Nos.99 and 100. We have perused these documents. Both these documents show that Respondent No.8's uncle belonged to 'Dhavad' community.

5. Respondent No.8 has also produced property records in the name of his great grandfather Raju Chimu Dhavad and grandfather Rahman Raju Dhavad and uncle Shabir Rehman Warunkar. These documents pertain to the years 1939 and 1959 respectively i.e. pre-

Constitution period. In all these documents the surname of these persons is shown as 'Dhavad'.

6. Be that as it may, the Petitioner has placed on record the Vigilance Committee report dated 7.12.2012 at page No.126. We have minutely gone through the same. We find that all the documents referred above and relied upon were produced before the Vigilance Committee and considered by the said Committee. After holding an enquiry and examining these documents the Vigilance Cell has recorded the conclusion that Respondent No.8 belongs to the 'Dhavad' community, which is notified as OBC.

7. Taking all the facts and circumstances into consideration, we find no error in the impugned order passed by the Respondent No.4-Caste Scrutiny Committee and therefore, not inclined to interfere in the same in exercise of Article 226 of the Constitution of India. The petition is devoid of merit and the same is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)