

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3436 OF 2015

Shri Jagdishsingh Anantsingh Rajput

..Petitioner

Vs.

State of Maharashtra and Others

..Respondents

Mr. R. K. Mendadkar, for the Petitioner.

Mr. P. G. Sawant, AGP, for the Respondent Nos.1 and 2.

Mr. Yogesh patil i/b Mr. Vijay D. Patil, for Respondent No.3.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.
DATE :- DECEMBER 8, 2016.

P. C.:

The Petitioner has approached this Court challenging an order passed by the Caste Scrutiny Committee invalidating his claim as belonging to Rajput Bhamta, Vimukt Jati.

2 The employer of the Petitioner forwarded a caste certificate for scrutiny and verification by the Caste Scrutiny Committee at Solapur. That Committee, by the impugned order dated 31st December, 2013 while invalidating the caste claim has

held that though the Petitioner's uncle from the paternal side (his father's real brother) Kishorsingh Rajput was issued a caste validity certificate, that cannot be relied upon as a valid piece of evidence much less would have binding effect for the order issuing that certificate is unreasoned. That order does not make any reference to any material much less that is produced. The Committee has referred to the school leaving certificate of the Petitioner and other materials including the school leaving certificate issued in favour of the Petitioner's grandfather to conclude that in these there is either a reference in the caste column to their caste / tribe as Hindu Rajput Bhamta or Rajput simplicitor or Rajput Bhamta. This would, therefore, make the claim suspicious and no reliance can be placed on the caste validity certificate issued in favour of Kishorsingh. Now, an affidavit in reply has been filed in which this conclusion is sought to be supported by additional material. It is sought to be urged on behalf of the Committee by Mr. Sawant and based on this affidavit that the certificate issued in favour of Kishorsingh is vitiated by fraud, suppression of material or misrepresentation. Therefore, it cannot be relied upon.

3 We do not countenance such an approach and for the simple reason that when Kishorsingh was issued the caste validity certificate on 26th May, 2011, surely the Committee and the Scrutiny Committee at Pune had before it all the documents particularly pertaining to the relatives of Kishorsingh from paternal side. Now, the Committee wishes to make an inquiry by going behind the certificate issued to Kishorsingh but without recording the primary findings that the issuance of that certificate is vitiated by fraud or misrepresentation. Once the close relative from the paternal side is issued caste validity certificate, ordinarily the members of the same family cannot be denied such certificate purely on suspicion, as is found in the impugned order. Once there is no finding of fraud or misrepresentation, then, we do not see how a certificate of validity could have been refused to the Petitioner. We, therefore, do not allow supplementing or supplanting of the reasons by material now placed on the affidavit in reply. That would mean a initial wrong or erroneous order can be brought to life and held to be legal and valid by relying on these materials. That is not a permissible course of action while testing the legality and validity of orders passed by the statutory authority. In exercising the powers of judicial review, we must

take the impugned order of such authority as it stands and the reasons as are to be found in the order. We cannot in the garb of scrutinizing such orders for their legality and validity allow them to be validated by additional material or reasons placed on affidavit. If the impugned order is vitiated by non-application of mind or an error of law apparent on the face of the record that cannot be allowed to stand by such a course or exercise. In such circumstances, we do not accept the request of the learned Additional Government Pleader appearing for the Respondent of a remand.

4 We allow this Writ Petition and quash and set aside the impugned order. We direct the Committee to issue a caste validity certificate to the Petitioner which shall be issued within a period of two weeks from the date of receipt of a copy of this order.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)