

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1954 OF 2014.

Komal Nagarkar @ Sai Sanil Shirke Petitioner

V/s.

1. State of Maharashtra
Through Secretary, Social Justice and Respondents.
Special Assistance Department and ors

Mr. R. K. Mendadkar, for the Petitioner.
Mr. Y. S. Jahagirdar, Senior Advocate i/by
Mr. P.J.Thorat for Respondent No.3.
Mrs. M. P. Thakur, AGP for the Respondent
State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 21st SEPTEMBER, 2016.

P. C.:

1. Heard Mr. Mendadkar, learned counsel for the Petitioner, Mrs. Thakur, learned AGP for the State and Mr. Thorat, learned counsel for Respondent No.3.

2. By this petition filed under Article 227 of the Constitution of India, Petitioner is challenging the order dated 5.2.2014, passed by Respondent No.,2, validating Caste Certificate of Respondent No.3.

3. Respondent No.3 in support of his claim that he belongs to

“Kunbi” caste, relied upon following 15 documents:-

Sr.No	Description of Document	Relation with applicant	Caste mentioned.
1	Caste Certificate issued by Sub Divisional Officer, Junnar Sub Division Khed (Pune) bearing No.JNR/Caste/SR/10612/2011, dated 05.10.2011.	Self	Kunbi (Sr.No.83).
2	School leaving Certificate Principal, Ramniranjan Jhunjhunwala College, Ghatkopar (W), Mumbai 400 086 dated 18.9.2011, (Register No.109/1986-87 Sr.No.11653) Date of Admission 20.6.1986, Date of birth 1.1.1969.	Self	Non B.C.
3	School leaving Certificate Head Master, Z.P. Primary School, Umbraj No.1, Tal. Junnar, Dist.Pune dated 26-08-2011 (Register No.81/4) Date of Admission 25-3-51. Date of Birth 7-1-1943.	Father	Hindu Maratha
4	Village Form No.14 at Umbraj, Taluka: Junnar Birth Death Register year 1870 (Son of Babaji bap Darkoji Hande (dated 27-12-1870)	Great Great Grandfather	Kunbi
5	Village Form No.14 at Umbraj, Tal. Junnar Birth Death Register year 1872 (Tai Father Babaji Hande (dated 22 nd Nil 1872)	Great Great Grand Aunt	Kunbi
6	Village Form No.14 at Umbraj, Taluka: Junnar, Birth Death Register year 1872 (Raksha Kom Darku)	Great Great Great Grandfather	Kunbi
7	Mutation No. of Tulshiram Babaji Hande (Death on 12-12-44) Heirs 1) Radhu 2) Babu 3) Gangadhar 4) Haribhau 5) Damodhar	Great Grandfather	-
8	Mutation No. Register No.328 dated 3-7-93 of Damodar Tulshiram Hande (Death on 22.6.93) Heirs Deepak Waman Hande	Grand Father	-
9	Record of rights (village Form No.6) Radhu Tulshiram Hande, Damu Tulshiram Hande	Cousin Grand father	-
10	7/12 extract of Deepak Waman Hande	Self	-
11	Domicile Certificate of Deepak Waman	Self	-

	Hande issued by Kamgar Talathi, Umbraj, Tal. Junnar, on 22.8.2011		
12	Affidavit of Deepak Waman Hande in respect of genealogy dated 11-1-2012	Self	-
13	Death Certificate of Waman Hande issued by Registrar, Birth Death Marriage Registrar Office, Gram Panchayat Umbraj No.1, Taluka Junnar (Death 17-05-92).	Father	-
14	Ration Card No.170542 of Hande Satyabhama Waman	Mother	-
15	PAN Card and Driving license of Deepak Waman Hande Date of Birth: 1-1-1969.	Self.	-

4. Besides above documents, Respondent No.3 also relied upon the death entry pertaining to year 1915 recording death of son of Tulshiram, great grandfather of Respondent No.3.

5. Apart from these documents relied upon by Respondent No.3, Respondent No.2 Caste Scrutiny Committee also called for the Vigilance Report. The documents at Sr.Nos. 4 and 5 are in Modi script. Hence they were translated in Marathi. However, in Marathi translation the surname of the great great great grand father and great grand aunt, is shown as '**Hade**' instead of '**Hande**'. Therefore, Petitioner took objection and on this objection the Caste Scrutiny Committee refused to rely upon these documents.

6. The Caste Scrutiny Committee, however, relied upon the death entry dated 04.06.2015 of son of Tulshiram Hande. There is no dispute that son of Tulshiram is. grand father of Respondent No.3 and

caste of son of Tulshiram in the death extract is shown as '**Kunbi**'. In our opinion, this document being of pre-Constitutional Period is rightly relied upon by the Caste Scrutiny Committee.

7. The Vigilance Report is placed on the record at page No.74. We have gone through the same. This report supports the case of respondent No.3 that he belongs to Kunbi Caste. This report is prepared on the basis of depositions of Dhondibhau Kashinath Ghangale and Vasant Shankar Hande, both residents of Umbraj, No.1 - the residence place of respondent No.3. Both these witnesses have stated that respondent No.3 belongs to Kunbi Caste. The petitioner has cross examined these witnesses before Caste Scrutiny Committee. However, nothing worthwhile was elicited through their searching cross examination. The Caste Scrutiny Committee, therefore, rightly relied upon the Vigilance Report while coming to the conclusion that respondent No.3 belongs to Kunbi Caste.

8. Mr. Mendadkar, learned counsel appearing for the Petitioner, then heavily relied upon document at Sr.No.3 viz. School Leaving Certificate of Respondent No.3's father. We have perused the said School Leave Certificate, which is issued by the Head Master, Zilla Parishad, Primary School Umbraj No.1 on 26th August, 2011. The date of entry of father of Respondent No.3 in School is shown as 25-03-51 and the caste of father of Respondent No.3 is shown as '**Hindu Maratha**'. If the

caste of grand father of Respondent No.3 is '**Kunbi**', as reflected in the document of 1915, then we fail to understand as to how the caste of father of respondent No.3 is recorded as '**Hindu Maratha**'. Respondent No.2, therefore in our opinion, rightly refused to place reliance on these documents.

9. Thus, taking totality of the facts and circumstances of the case into consideration, we do not find any justification to interfere in the impugned order. The petition is devoid of any merit and the same is accordingly dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]