

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5362 OF 2016

Parshuram Bhimrao More

...Petitioner

Versus

The State of Maharashtra through its
Secretary, Social Justice Department
& Ors.

...Respondents

...

Mr. R.K. Mendadkar for the Petitioner.

Mrs. M.P. Thakur, AGP for Respondent Nos.1 to 4

Mr. A.D. Sale for Respondent No.6.

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

DATED : 24th OCTOBER, 2016.

P. C. :

Heard Mr. Mendadkar, the learned counsel for the
Petitioner, Mr. Sale, the learned counsel for Respondent No.6 and Mrs.
Thakur, the learned Additional Government Pleader for Respondent
Nos.1 to 4-State.

2. By this petition filed under Article 226 of the Constitution
of India, the Petitioner is challenging the order dated 25th February,
2016 passed by the Respondent No.2-Divisional Caste Certificate

Scrutiny Committee No.2, Kolhapur. By the said order the caste certificate of the Petitioner as belonging to “Gondhali” (Nomadic Tribe) issued by Respondent No.4-Sub Divisional Officer, Sangli Sub Division, came to be invalidated.

3. The Petitioner in order to support his claim relied upon 12 documents. The documents at Serial Nos.2, 3, 4 and 7 of the years 1995, 2005, 2002 and 1975 respectively though support the claim of the Petitioner same were not considered by the Respondent No.2-Divisional Caste Certificate Scrutiny Committee as these documents are for the period subsequent to 21.11.1961.

4. Be that as it may, the document at Serial No.11, is an extract of year 1954 relating to the birth entry of son of Sidram. The Petitioner claimed that Sidram is brother of his grandfather and in this entry caste of said Sidram is shown as “Gondhali”. This document was not considered by the Divisional Caste Certificate Scrutiny Committee on the ground that the Petitioner's surname and surname of said Sidram is different. The Petitioner, however, in this regard has relied upon the affidavit explaining the genealogy of the concerned persons.

5. Mr. Sale, the learned counsel appearing for Respondent

No.6 relied upon the school leaving certificate of Appanna Kashiram More. He submits that this certificate was relied upon by the Petitioner in the year 2012 to contend that he belongs to “Gondhali” caste. He submits that this certificate shows that birth of Appanna Kashiram More is of 9.9.1935 and he was entered into school on 1.6.1943 and left the school on 16.7.1949. He also invited our attention to the certificate of Head Master of the said school, which shows that the said school was started in the year 1994 and therefore, there is no question of school leaving certificate in respect of Appanna Kashiram More. Said Appanna was not a student of the said school. Mr. Sale also fairly states that this certificate was not produced before the Caste Scrutiny Committee to oppose the Petitioner's claim.

6. It is by now settled principle that all the documents whether post or pre-constitution or Presidential or State Notification, it would be always open to the Committee to examine the same. Reference can be made to the decision of the Division Bench of this Court in ***Mahesh Pralhadrao Lad vs. State of Maharashtra 2009(2) Mh.L.J.*** The Respondent No.2- Divisional Caste Certificate Scrutiny Committee No.2, Kolhapur, in above circumstances could not have refused to consider the documents relied upon by the Petitioner on the

ground that same pertained to the period subsequent to the year 1961. The impugned order is vitiated and same cannot be sustained.

7. In above such circumstances we set aside the impugned order and remand the matter to the Respondent No.2-Divisional Caste Certificate Scrutiny Committee No.2, Kolhapur. The Respondent No.2 shall consider the Petitioner's claim afresh. The Respondent No.6 would be at liberty to submit the documents which he has relied upon, to oppose the Petitioner's claim. The Divisional Caste Certificate Scrutiny Committee No.2, Kolhapur, thereafter to hear the Petitioner as well as Respondent No.6 and pass appropriate orders, as expeditiously as possible and preferrably within a period of four months from the date of receipt of copy of this order. Ordered accordingly.

8. Needless to mention that all the points and contentions of the respective parties are expressly kept open.

9. The petition stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)