

hvn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6119 OF 2016

Dhanraj Chandrasekhar Swami

...Petitioner

Vs.

State of Maharashtra & Ors.

...Respondents

R.K. Mendadkar Advocate for the Petitioner

Mr. S.B. Kalel, AGP for the State

CORAM : SHANTANU S. KEMKAR &
M.S. KARNIK, JJ.
DATED : 21st OCTOBER, 2016

P.C. :

Parties through their Counsel.

2. By this Petition filed under Article 226 of the Constitution of India the Petitioner has challenged the order dated 7th November, 2015 passed by the Respondent No.2 Divisional Caste Certificate Scrutiny Committee, Kolhapur (for short hereinafter referred as "the Committee") whereby rejecting the Petitioner's caste claim. According to the Petitioner before the Committee the Petitioner had submitted Caste Validity Certificate of his real uncle, however the said caste certificate has been ignored by the Committee and the Petitioner's claim has been rejected.

3. Learned Counsel for the Petitioner submits that the decision of the Committee is in contravention of the law laid down by the Division Bench of this Court in the case of **Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 2010(6) Mh.L.J. 401**. He further submits that thereafter in number of cases by following the said judgment passed by the Division Bench of this Court in the case of **Apoorva** (supra) the matters have either been remanded back to the Committee for fresh consideration or the Petitions were being allowed.

4. On the other hand learned AGP appearing for the Respondents has supported the order passed by the Committee. He submits that the Committee has examined the entire aspect of the matter and has correctly passed the impugned order.

5. Having considered the submissions made by the learned Counsel for the parties and on perusing various judgments passed from time to time including the decision taken in **Apoorva's** case (supra) we find that the Committee while considering the Petitioner's claim has ignored the law laid down by this Court in the case of **Apoorva** (supra).

6. Thus the impugned order of the Committee cannot be sustained as it was the bounden duty of the Committee to have considered the certificate of the Petitioner's real uncle and the

Committee ought to have followed the law laid down by this Court in the case of **Apoorva** (supra).

7. In the circumstances we set aside the impugned order passed by the Committee and remand back the matter to the Committee for fresh decision keeping in mind various judgments passed by this Court and also the decision in the case of **Apoorva** (supra). The decision be taken by the Committee as expeditiously as possible not later than 3 months from the date of receipt of this order.

8. The Petitioner to appear before the Divisional Caste Certificate Scrutiny Committee on 15.11.2016 at 11.00 am.

9. The interim order passed earlier to continue till the Committee decides.

10. The Petition is disposed of.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)