

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1407 OF 2016
IN
WRIT PETITION NO.6078 OF 2016

Dilip Manglu Borse ...Applicant

In the matter between

Sangeeta d/o Suklal Bhamre @

Dipika w/o Sanjay Chavan and Another ...Petitioner

vs.

Scheduled Tribe Certificate Scrutiny

Committee, Nashik ...Respondent

Mr. V.A. Thorat, Senior Advocate i/b. Mr. V.A. Sugdare, for the
Petitioner in WP. No. 6078 of 2016.

Mr. G.S. Godbole, Senior Advocate a/w. Ms. Milan Chandanani i/b.
Ms. Shruti Tulpule, for the Applicant in CAW No.1407 of 2016.

CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.

DATE : **JULY 20, 2016**

P.C.:

. With consent heard the learned counsel for the parties on
the Civil Application as also on the Writ Petition.

2. By filing this Petition under Article 226 of the Constitution
of India, the Petitioner has challenged the order dated 31st May, 2016
passed by the Scheduled Tribe Certificate Scrutiny Committee, Nashik
(for short "*the Committee*") in case No. NSK/ELC/5918/2011 (Exhibit

“I”) whereby the Committee has declined the Petitioners' prayer to withdraw the matter referred to by the Collector, Nashik for verification under Section 3 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (regulation of Issuance And Verification of) Caste Certificate Act, 2000 (in short “*the Act*”) on the ground that, in view of the order dated 5th August, 2014 passed in Writ Petition No. 7148 of 2014 filed at the instance of the present Petitioner and the order dated 23rd November, 2015 passed in Writ Petition No. 9507 of 2015 which was filed at the instance of the intervener, (the Applicant of Civil Application No. 1407 of 2016) the prayer for withdrawal of the application cannot be allowed. The Committee also observed that since a complaint has also been received by it in view of Section 7 of the Act, the Committee will proceed to verify the Petitioner's tribe claim towards “*Thakur*” a Scheduled Tribe.

3. The Civil Application has been filed by the Applicant Dilip Manglu Borse stating therein that since the Applicant as also his brother Umaji Borse had made complaints before the Committee, in

view of Section 7 of the Act the Committee is empowered *suo motu* or otherwise to inquire into the correctness of the certificate and take the decision. In the circumstances, according to him the order of Committee is just and proper and needs no interference more particularly in view of the reasons assigned by the Committee in the impugned order.

4. We have heard the learned counsel for the Petitioner as also the learned counsel for the Applicant of Civil Application as also on Writ Petition finally.

5. Undisputedly the Petitioner did not contest the Municipal election but had contested the election of Member of State Assembly and her election is under challenge in the Election Petition pending before this Court. Initially the Petitioner was desirous of contesting election of Municipal Council. In the circumstances, she had made an application for verification of her caste certificate to the Committee. Aggrieved by the proceeding order of the Committee, the Petitioner had filed Writ Petition No. 7148 of 2014 in which this Court directed the Committee to decide the Petitioners' caste claim as expeditiously

as possible. Thereafter, a Writ Petition No. 9507 of 2015 was filed at the instance of Applicant Dilip Borse. In the said Petition this Court on 23rd November, 2015 passed the following order:

“Learned A.G.P. Submits that the Petition seeks direction to decide the proposal filed by Respondent No. 3 for verification of caste claim pending before Respondent No. 2 – Committee. Learned A.G.P has taken instructions. He makes a statement that Respondent No. 2 – Committee would finally decide the proposal of Respondent No. 3 on its own merits within 5 months from today. In view of the above statement, the Writ Petition stands disposed of.”

6. When the matter stood thus the Petitioner submitted an application before the Committee seeking withdrawal of the claim for verification. The Committee, taking into consideration overall facts and circumstances of the case declined the Petitioners' prayer to withdraw her claim for verification of her being belonging to “Thakur” a Scheduled Tribe. The Committee also observed that one Umaji Borse had filed a complaint against the Applicant on 20th January, 2016 and the then Committee while considering the same again handed over the case for re-verification. In the circumstances, the Committee was of the view that in view of the direction of this

Court in the aforesaid Writ Petition and taking into consideration the provision contained in Section 7 of the Act, as the complaint has been received against the caste certificate, the prayer made by the present Petitioner for withdrawal of the verification claim cannot be allowed. Feeling aggrieved, the Petitioner has filed this Petition.

7. Having considered the submissions made by the learned counsel for the parties, we are of the view that as regards the prayer for withdrawal of the claim for verification of caste certificate, since the application was made at the instance of the Petitioner, the Committee ought to have allowed the Petitioner to withdraw her prayer for verification of the caste certificate. We are of the considered view that neither the order passed in Writ Petition filed at her instance directing the Committee to decide her claim nor the order passed in Writ Petition No. 9507 of 2015 can be said to come in the way of the Committee for allowing the Petitioner to withdraw her application for verification of the caste claim. In the circumstances, we quash and set aside that part of the order. However, we find that in view of the provision contained in Section 7 of the Act and the fact that the complaint of one Umaji Borse was already received by the

Committee and on that basis the Committee had proceeded for re-verification, the Committee being seized over the matter on the basis of the complaint received from Umaji Borse can certainly proceed further for deciding the complaint made by Umaji Borse. In the circumstances, we allow this Petition in part by quashing the part of the order disallowing withdrawal of the application of the Petitioner for re-verification of the caste certificate. However, we maintain the order of the Committee to proceed with the complaint made by Umaji Borse. It is the case of the Petitioner that he has also made a complaint before the Committee of which he has got acknowledgement. In this regard suffice it to say that, if the Applicant produces satisfactory evidence in that regard before the Committee, the Committee shall deal with the complaint of the present Applicant also while dealing with the complaint made by Umaji Borse.

8. With the aforesaid direction, Writ Petition and the Civil Application stands disposed of.

(M.S. KARNIK, J.)

(S.S. KEMKAR, J.)