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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 279 OF 2012
WITH
CIVIL APPLICATION NO. 2335 OF 2015**

Smt. Manisha Vasant Kamathe ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. R.K. Mendadkar, Advocate for the Petitioner.
Mr. Bhushan P. Kakade, AGP for Respondent Nos. 1 to 3

**CORAM : SHANTANU S. KEMKAR &
M.S. KARNIK, JJ.
DATED : 23RD AUGUST, 2016**

P.C. :

Feeling aggrieved by the order dated 12th August, 2011
Exhibit-A passed by the Divisional Caste Scrutiny Committee
Respondent No.2, the Petitioner has filed this Petition under
Article 226 of the Constitution of India.

2. According to the Petitioner the Divisional Caste Scrutiny
Committee while passing the impugned order has not at all

considered the Vigilance Cell Report, which was in favour of the Petitioner. It is his case that the Divisional Caste Scrutiny Committee has wrongly placed reliance on the judgment passed by this Court in **Writ Petition No. 4476 of 2002 in the case of Jagannath Damodar Hole Vs. State of Maharashtra 2004 Mh. L.R. 2-667**. According to the Petitioner in the said judgment there is no blanket observation that the documents of prior to 1920 cannot be considered. It is further the case of the Petitioner that the Divisional Caste Scrutiny Committee has ignored the fact that the Petitioner's real brother and sister were granted the Caste validation by the said Committee itself on the same facts whereas the Petitioner is denied without giving any reason in that regard.

3. On the other hand learned AGP has supported the impugned order. He submits that the Divisional Caste Scrutiny Committee after examining all the documents filed by the Petitioner has recorded the said finding which need not to be interfered with.

4. Having considered the submissions made by the learned Counsel for the parties and going through the impugned order we find that the Divisional Caste Scrutiny Committee has brushed aside the Vigilance Cell Report without assigning any reason. We also find that the Caste Scrutiny Committee has erred in placing reliance on the judgment of this Court in **Jagannath Damodar Hole (supra)**, as we do not find in the said Judgment that this Court has observed that the documents prior to 1920 cannot at all be considered. We find that the Court in the facts of that case after examining the documents filed in that case has recorded the following observation:

“12. We have noted from the birth registers that prior to the period of 1920, the castes were entered on the basis of occupation and persons whose caste was entered as Kunbi, their caste has been subsequently shown to be that of Maratha e.g if a child was born to 'a' prior to 1920, his caste has been shown as Kunbi whereas if he begot another child around 1920 or thereafter, the caste in the register has been recorded as “marathi”. 'a' died any time after 1920, his caste has been recorded as “marathi”. In the instant case, right

from the death of Bhaguji, all the descendants have shown their caste as Maratha. The documents pertaining to Kashiram, the petitioner's grandfather show the caste as Maratha. Thus, the petitioner's three generations ie Kashiram, Ranganath and the petitioner himself, claim to belong to Maratha caste till the petitioner obtained the caste certificate dated 3.11.2001 from the Sub-Divisional Officer, Shrirampur. There was no other material in support of the claimant a social claim and the complainants had proved that in the birth extract, school admission registers of respondent No.3, his brothers, father and uncle, the caste recorded all along was Maratha or Marathi. Even in the case of petitioner's cousins from the paternal side, all of them had claimed to be belonging to Maratha caste. The document relied upon by the Committee in support of its decision was contradicted by the death extract of Bhaguji, the father of Sari. Bhaguji's caste on the birth of Sari was shown as Kunbi in 1913 whereas his caste was recorded as Marathi when he died in 1929. This supports our conclusion that around 1920 onwards the Kunbis impliedly accepted that they were actually Marathas and Kunbi was only an occupation”.

5. We also find that no proper appreciation to the various documents filed by the Petitioner and the Petitioner's case has been rejected by a non-speaking order.

6. In view of the aforesaid we quash the impugned order and remand the same to the Caste Scrutiny Committee for deciding the Petitioner's case afresh as expeditiously as possible, but in any case not later than 3 months from the date of receipt of the copy of this order. While deciding the matter, the Caste Scrutiny Committee shall also take into consideration the law laid down by this Court in the case of **Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) MH.L.J. 401.**

7. The Petitioner to appear before the Divisional Caste Scrutiny Committee on 30th August, 2016.

8. Parties to act on the authenticated copy of this order. As regards to Civil Application we keep the point raised in the Civil Application open.

9. Accordingly the Petition as also the Civil Application are disposed of.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)