

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8702 OF 2014**

Omprakash Ramdev Panwar,
Aged Adult, Occu. Service,
residing at D-1-1-2, Sector-6, Nerul,
Navi Mumbai 400 706.

....Petitioner.

Vs.

- 1 Government Of India
Through its Secretary,
Ministry of Social Justice & Empowerment
1st Floor, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110 001.
- 2 National Commission for Scheduled Castes,
State Office (Maharashtra & Goa),
Kendria Sadan, 'A' Wing, 1st Floor,
Opp. Akurdi Railway Station,
Nigdi Pradhikaran,
Pune-411 044.
- 3 State Of Maharashtra,
Through its Secretary,
Social Justice, Cultural affairs
and Sports Department,
Mantralaya, Mumbai-400 032.
- 4 Divisional Caste Certificate
Scrutiny Committee No.1,
Through its Member-Secretary,
having its office at 5th Floor,
Konkan Bhavan, CBD, Belapur,
Navi Mumbai-400 614.

5 Mazagon Dock Limited,
Dockyard Road,
Mumbai-400 010.

....Respondents.

Mr. Omprakash Ramdev Panwar, Petitioner-in-person.

Mr. Rajeev Chavan, Senior Advocate a/w Mr. D.P. Singh for Respondent No.1.

Mr. V.N. Sagare, AGP for Respondent Nos. 2 to 4.

Mr. Vikas Warerkar i/by Warerkar & Warerkar for Respondent No.5.

**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ.**

RESERVED ON : 8 AUGUST 2016.

PRONOUNCED ON :16 AUGUST 2016.

JUDGMENT (PER ANOOP V. MOHTA, J.):

Heard the Petitioner, party-in-person and the respective advocates, by consent of the parties finally and noted the written submissions filed by the Petitioner. The Petitioner is not claiming any specific reliefs against his employer-Respondent No.5, Mazagon Dock Limited and Respondent No.1-Government of India, as he is already retired. He is not claiming any specific service related benefits, in this Petition. We are inclined to dispose of the present Writ Petition, restricting it to the prayers so made.

2 The Petitioner, a migrant, belongs to Hindu Khatik caste, which is a recognized Scheduled Caste (SC), in the Union Territory of

Delhi, (The native State), has challenged order dated 18 June 2014 passed by the Divisional Caste Certificate Scrutiny Committee No.1-Respondent No. 4 (for short, "*the Committee*") whereby it is held that, the Petitioner has failed to prove that he belongs to Khatik SC as per the scheduled list of Maharashtra State as he was not a permanent resident of the State of Maharashtra (The State) earlier to 10 August 1950.

3 It is held that the Caste Certificate issued by the Deputy Collector, Thane, on the basis of Caste Certificate issued by the Deputy Collector, Delhi in the format specified for migrant person, is in accordance with law and the Rules. It is concluded that the Petitioner came to the State from the State of Madhya Pradesh in the year 1982; and the Petitioner's father had been permanent resident of Delhi and concluded as under:-

"ORDER

Caste Certificate No. Setu/11-01-2002-23508 dated 21-05-2002 issued by the Deputy Collector, Thane, District Thane to the applicant is in the Format specified for migrant person. As per rule 14 of 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) Rules 2012, Divisional

Caste Certificate Committee cannot verify caste certificate in the migrant format. Applicants shall obtain his caste certificate and caste validity certificate from native State.”

4 The second prayer of the Petitioner is to quash and set aside the following order dated 27 February 2004, of Caste Scrutiny Committee, which was passed against the Petitioner's daughter (Priyanka). In Priyanka Omprakash Panwar Vs. State of Maharashtra & Ors. Writ Petition No. 5048 of 2004 dated 7 March 2005, this Court observed as under:-

“Admittedly, State of origin of the Petitioner's father is from the State of Madhya Pradesh. That being so the Petitioner will be entitled to reservation in the State of Madhya Pradesh and not in the State of Maharashtra. This was one of the ground on which the Caste Scrutiny Committee had rejected the contention of the Petitioner. We do not find any error of law apparent on the face of record in so far as that finding is concerned.”

5 The challenge to the above order passed by this Court dated 27 February 2004, has attained finality, therefore, at the instance of the Petitioner, we decline to re-open the issue of reservation even on the basis of the averments made in the present Petition on 1 September 2014, after 10 years. The conclusion, so drawn in the above order, is also the decision against the Petitioner on

the same issues. The prayers so made and the related aspects have attained finality, therefore, we decline to grant the prayers. The learned AGP has also pointed out the above position by referring to affidavit dated 11 December 2015, filed by Respondent No.4. We are, therefore, inclined to reject the said prayers, as there is no case to re-open the said issue again.

6 So far as the main prayer against the order passed by the Committee dated 18 June 2014, is concerned, we are inclined to observe that no case is made out to interfere with the order so passed by the Committee, for the above reason itself.

7 Furthermore, admittedly, in the State for the Caste claim and its related decisions a prescribed procedure needs to be followed by all the concerned, under 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 (for short, "*the Act*") and Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special

Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short, "*the Rules*"), made thereunder.

8 Rules 6, 14 and the other provisions have been noted by the Committee, while passing the impugned order on admitted facts. The clear provisions of the Rules provide the procedure of issuance of Caste Certificate to the migrated persons, (Rule 6, Form-6 and Form-10). Rule 14 of the Rules, provides that the Caste Certificate issued to migrant from other State and Caste or Community Certificates issued by the Authorities of the States, other than the State, shall not be verified by such Caste Scrutiny Committee. The Committee, as noted, after considering the documents and the certificate submitted by the Petitioner, concluded and which is not in dispute, that the Petitioner is migrated from other State to Maharashtra in the year 1982. Therefore, for want of any documents to prove his residence in Maharashtra prior to deemed date i.e. 10 August 1950, the Committee has passed the order, in accordance with law and the record. The relevant certificate under Rule 6, in the format specified for migrants so issued, based upon the certificate produced by the Petitioner from Delhi, needs no interference. It is settled that the Petitioner is not

entitled for the benefits, being Hindu Khatik (SC), as he or his forefathers were not residents of Maharashtra on the due date. The Petitioner's entitlement on the basis of certificate of Competent Authority from Delhi that he belongs to Khatik caste, itself is not sufficient to claim and derive benefits from the State. His entitlement/benefits from the State of his original residence and from the Union Government, however, remained intact. As noted, even the Petitioner's daughter's case, as recorded earlier in this regard, has attained finality, based upon the Petitioner's caste/certificate. It cannot be different. The issue so concluded, therefore, cannot be re-opened in this restrictive Petition.

9 The Judgments, so referred and cited by the Petitioner in support of his case, in so far as the law is concerned, need no discussion, as it is settled. So far as the rights and entitlement of the caste benefits, which the Petitioner has claimed, is not within the ambit of the State's list and his entitlement, if any, therefore, would be governed by the native State legislation.

10 The submission that in spite of a remand order, to verify the Caste Certificate of the Petitioner, being the order passed by the Court on 18 December 2013, in earlier Writ petition No. 3645 of 2012, is also of no assistance, as the Committee by taking note of the position of law and the record, has now passed a reasoned order. The Committee needs to pass order even after remand, in accordance with law and the facts and circumstances of the remanded case. There is no perversity. The impugned order is within the frame work of law and the record. For the reasons so recorded, we are not inclined to expand the scope of the Writ Petition, merely because the Petitioner has made various representations to the authorities. The law with regard to the right of migrant in other State than native, is quite settled. In Subhash Chandra & Anr. Vs. Delhi Subordinate Services Selection Board & Ors.¹ the Apex Court observed as under:-

“97. This Court in *Marri Chandra Shekhar Rao [(1990) 3 SCC 130]* categorically held that when a person is held to be a member of Scheduled Castes for one State, he cannot be treated as such in another. In *Milind [(2001)1 SCC 4: 2001 SCC (L&S) 117]*, it was categorically held that the High Court, in exercise of its supervisory jurisdiction, under Article 227 of the Constitution of India, cannot make any roving inquiry for the purpose of finding out as to whether a person belonging to one caste would, for one reason or the other;

1 (2009) 15 SCC 458

can be held to be belonging to another caste or tribe which had been notified as Scheduled Caste or Scheduled Tribe.”

11 Therefore, taking overall view of the matter, we see no case is made out to grant reliefs so prayed by the Petitioner. Writ Petition is therefore, dismissed. Rule discharged accordingly. No costs.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)