

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7851 OF 2011

Ulka Ramesh Thakur

..Petitioner

Vs.

Scheduled Tribe Certificate Scrutiny

Committee and Another

..Respondents

Mr. Drupad S. Patil, for the Petitioner.

Mr. N. C. Walimbe, AGP, for the Respondent No.1.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.

DATE :- NOVEMBER 17, 2016.

P. C.:

By this Petition under Article 226 of the Constitution of India the Petitioner challenges the order passed by the Caste Scrutiny Committee denying the claim of the Petitioner as belonging to the Thakur Scheduled Tribe.

2 It is common ground that the Petitioner's claim was referred for scrutiny and verification because the Petitioner claimed to be appointed as Assistant Teacher (Primary) in the

Zilla Parishad Pune. The Committee was informed by the Petitioner that in the case of her real sister and seeking and projecting the same claim as belonging to the Thakur Scheduled Tribe, the Caste Scrutiny Committee, on verification and scrutiny, has granted a Caste Validity Certificate. That is therefore a valid and legal piece of evidence which could be relied upon to support the claim of the Petitioner. Rather the claim stands established and proved once the real sister is held to be belonging to Thakur Scheduled Tribe.

3 The complaint of Mr. Drupad Patil appearing for the Petitioner is that such a vital piece of evidence has been ignored and brushed aside. There is a specific ground raised in the Writ Petition to that effect. Our attention is invited by Mr. Patil to the said averments in the Writ Petition, based on which a Bench of this Court was persuaded to pass an ad-interim order. Averments are to be found at page no.9 Ground No. II. It is contended that vital evidence in the form of Certificate of Validity issued in favour of real sister Shilpa was not evaluated and appreciated. Hence, the impugned order is perverse.

4 There is no denial of this factual statement or the ground in the affidavit filed on behalf of the Committee. The detailed affidavit in reply refers to how the claim of the Petitioner as belonging to Thakur Scheduled Tribe should be scrutinized. The past cases have been referred to and equally the procedure. However, at page 103 of the paper book it is stated that it is a fact that the Petitioner as well as the real sister Shilpa Ramesh Thakur and their family members were ordinary residents of Village Varadsim, Taluka Bhusawal, District Jalgaon at the time of Notification of Scheduled Tribe Order, 1950. That place was not falling within the jurisdiction of Tahasildar and Executive Magistrate, Shirur, District Pune. Therefore, he is not a competent authority to issue the Caste Certificate to the Petitioner or her sister Shilpa. Therefore, the Caste Certificate issued even to Shilpa is without jurisdiction. On such grounds even the Caste Validity Certificate to Shilpa gets vitiated. The Committee has not applied its mind to that aspect of the matter and therefore the order in the case of Shilpa does not bind the Committee.

5 We are sorry to note that such a statement made in the reply affidavit runs contrary to the law laid down by this Court. If

real brothers and sisters and relatives of the paternal side are granted Caste Validity Certificate, then, in the absence of a clear conclusion of fraud or suppression of material and relevant facts, such validity certificates are valid piece of evidence and cannot be brushed aside. That is why the Division Bench of this Court was persuaded to pass the following order in this Writ Petition.

“ We have perused the file of the case of Ms. Shilpa Ramesh Thakur. There does not appear to be any dispute that the said Shilpa is the real sister of the Petitioner. The file shows that Caste Scrutiny Committee called for the Vigilance Cell report on the documents submitted by the said Shilpa Ramesh Thakur. There is a speaking order passed by the Caste Scrutiny Committee based on what is stated in the Vigilance Cell report upholding the validity of caste certificate granted to the Petitioner's sister Shilpa. Her claim that she belongs to Thakur caste, a Scheduled Tribe had been upheld.

2. After having perused the file, we find that due procedure has been followed by the Caste Scrutiny Committee in the case of Shilpa. Prima facie, we are of the view that there is no reason as to why reliance should not be placed on the order passed by the Caste Scrutiny Committee in the case of the said Shilpa. Issue notice for final disposal, returnable on 24th October, 2013. The learned AGP waives service for Respondent No.1. In addition to service through Court, private service is permitted. An authenticated copy of this order shall be served along with the notice.”

6 This Court passed the order after perusal of the entire file and original records. Once this Court has recorded the above view, then, we do not think that the order passed by the Caste Scrutiny Committee and impugned in this Writ Petition can be sustained. It is quashed and set aside. The matter is sent back to the Committee for a fresh scrutiny and verification particularly in the light of the order passed on 30th September, 2013 by this Court and the Committee shall consider the certificate of validity granted in favour of the Petitioner's real sister Shilpa as a valid piece of evidence and if that certificate is not found to be vitiated by fraud or suppression of material and relevant facts with regard to the claim, then, proceed to grant the validity certificate even to the Petitioner. In considering the claim afresh, the Committee shall be guided by resolutions and decisions of the State particularly for issuance of Caste Validity Certificate to the candidates and applicants based on the Validity Certificate issued to their real sisters and brothers and relatives on the paternal side. The Committee shall pass a fresh order as expeditiously as possible and within a period of three months from today. The Writ Petition is allowed in these terms.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)