

BDPPS

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

WRIT PETITION NO. 2792 OF 2016

Sangita Rajbali Yadav Petitioner.

V/s

The State of Maharashtra and Others Respondents.

**ALONGWITH
WRIT PETITION NO.9876 OF 2015**

Dorvijay R. Pal Petitioner.

V/s

Sangita Rajabali Yadav & Others Respondents.

Mr. Ram Apte, Senior Counsel with Mr. Saurabh Oka i/b Mr. Dilip Shinde for the Petitioner in Writ Petition No.2792 of 2016 and for Respondent No.1 in Writ petition No.9876 of 2015.

Mr. Amil Mhatre for the Petitioner in Writ Petition No.9876 of 2015.

Mr. P.P. Kakade, AGP for the State.

Mr. Ramakant Patil i/b Mr. Sandeep Marne for Respondent No.3 in Writ Petition No.2792 of 2016 and for Respondent No.2 in Writ Petition No.9876 of 2015.

Mr. S.B. Shetye for Respondent No.3 in both the Petitions.

**CORAM: V. M. KANADE &
M.S. KARNIK, JJ.**

DATE: 18th March, 2016

P.C.:- (Per V.M. Kanade, J.)

1. Both these Petitions can be disposed of by a common order.
2. Petitioner in Writ Petition No.2792 of 2016 is challenging the order passed by the Caste Scrutiny Committee which has invalidated the claim of the Petitioner by its order dated 14/01/2016, whereas the Petitioner in Writ Petition No.9876 of 2015 is the original complainant who is seeking an appropriate order and direction for setting aside the election of Respondent No.1 as a Corporator from Ward No.6 since her Caste Validity Certificate was invalidated by the Caste Scrutiny Sub-Committee.
3. Brief facts are as under:-
4. Petitioner in Writ Petition No.2792 of 2016 was granted Caste Validity Certificate by Respondent No.4 – Deputy Collector (GAD), Mumbai in which it was stated that the Petitioner belongs to 'Yadav' Caste. Petitioner's Caste Certificate was validated by Respondent No.2 – Divisional Caste Certificate Scrutiny Committee on 30/03/2015.

5. Petitioner, on the basis of the Caste Certificate and Validity Certificate issued by the concerned authority, contested the general elections of Navi Mumbai Municipal Corporation for the post of Corporator from Ward No.6. Petitioner was elected in the said election which was held on 21/04/2015 and the results of which were declared on 22/04/2015 by the Returning Officer.

6. Respondent No.6 made an application to the Respondent No.4 – Deputy Collector (GAD) and made a complaint that the Caste Certificate dated 05/03/2015 issued in favour of the Petitioner was not in fact issued by Respondent No.4's Office and the signature and seal on the said Certificate were also fabricated. Respondent No.4, in turn, informed the said fact to Respondent No.3 – Commissioner, Navi Mumbai Municipal Corporation.

7. Accordingly, Respondent No.2 – Divisional Caste Certificate Scrutiny Committee No.3 was asked to verify the allegations which were made by Respondent No.6 against the Petitioner and the Vigilance Cell Officer was directed to submit a report. The Vigilance Cell Officer submitted his report to Respondent No.2 – Committee. In the said Report, it was stated that the Caste Certificate dated 05/03/2015 issued in favour of the Petitioner was not genuine. In view of the said Report, Respondent No.2 – Committee issued notice to the Petitioner under Rule 17(11)(1) of the Caste Scrutiny Rules

and gave him an opportunity of producing the additional documentary evidence and oral evidence. Petitioner accordingly had filed an application in the Office of Respondent No.4 alongwith relevant documents on 20/02/2015 and after verification of the document, Respondent No.4 had issued Case Certificate on 05/03/2015.

8. Thereafter, the Caste Scrutiny Committed by its judgment and order dated 14/01/2016 invalidated the caste claim of the Petitioner.

9. Mr. Ram Apte, the learned Senior Counsel appearing on behalf of the Petitioner firstly submitted that since the contention of Respondent No.6 is that the Case Certificate which was obtained by the Petitioner was, in fact, not issued by Respondent No.4, an opportunity should be given to the Petitioner to again file a fresh application alongwith relevant documents.

10. In our view, it will not be possible now to permit the Petitioner to file a fresh application when the Caste Scrutiny Committee has given a specific finding that the Certificate which was produced by the Petitioner was bogus and fabricated and was, in fact, not issued by Respondent No.4 or his staff. The Caste Scrutiny Committee has also given a finding that the signature and seal on the said certificate was fabricated. In view of this, it will not be possible now to again permit the Petitioner to file fresh application.

11. The learned Senior Counsel appearing on behalf of the Petitioner has taken us through the judgment and order of the Caste Scrutiny Committee. He submitted that the Caste Scrutiny Committee had erred in not accepting the School Leaving Certificate produced by the Petitioner in which it was shown that her caste was 'Yadav'. He submitted that the Committee had erred in not relying on the said document on the ground that the document was not a document prior to 13/10/1967. He submitted that the Caste Scrutiny Committee had also discarded the Caste Certificate of Rajeshwari Yadav only on the ground that the Petitioner had not shown that she belonged to the family of close relative of the Petitioner. He submitted that the School Leaving Certificate of the Petitioner's father Rajbali Gopi Yadav was also incorrectly discarded.

12. We have gone through the said judgment and order passed by Respondent No.2. We find that the Caste Scrutiny Committee has given cogent reasons for discarding four documents on which reliance was placed by the Petitioner. So far as the Caste Certificate dated 05/03/2015 is concerned, the Scrutiny Committee has observed that the Vigilance Cell has given its Report that the Caste Certificate was bogus, forged and fabricated. Secondly, the Committee has noted that the Petitioner has not established that she or her father had migrated to Maharashtra before 13/10/1967. Petitioner had relied on School Leaving Certificate of her father Rajbali Gopi Yadav. In the said School Leaving Certificate, it is mentioned that Rajbali Gopi Yadav

took admission in the School on 16/08/1945 and that he was born on 12/11/1937 in Mumbai. The Caste Scrutiny Committee has observed that in Vigilance Cell's Report, it is stated that the School Leaving Certificate was not issued by the said School and no entries were found in the main Register. It has given an opinion that therefore the said Certificate was false and bogus. The Caste Scrutiny Committee, therefore, in our view, has rightly held that the Petitioner was not in a position to establish that she belonged to 'Yadav' caste and that she or her forefathers had migrated to Mumbai before 13/10/1967. The Committee has therefore given a finding that the Petitioner had produced false and bogus documents and had made a false representation before the Caste Scrutiny Committee. It therefore invalidated the claim of the Petitioner.

13. We are of the view that the Caste Scrutiny Committee has considered the material produced by the Petitioner and has rightly invalidated the claim of the Petitioner.

14. Petitioner has now sought to rely on the School Leaving Certificate of her brother Ramjeet Rajbali Yadav. The Certificate shows that he took admission in School on 09/07/1963 and he was born on 06/05/1958. It will not be possible to rely on this Certificate because it was neither produced before the Caste Scrutiny Committee nor was it filed in the Office of Respondent No.4 when she had applied for Caste Certificate.

15. We are therefore not inclined to interfere with the order passed by the Caste Scrutiny Committee. Writ Petition No.2792 of 2016 is dismissed.

16. So far as Writ Petition No.9876 of 2015 is concerned, law will take its own course and therefore it will not be possible for this Court to give directions which are sought for by the Petitioner for setting aside the election of Respondent No.1 in the said Writ Petition. Petitioner in the said Writ Petition may take appropriate steps before the appropriate authority in accordance with law. With these observations, Writ Petition No.9876 of 2015 is disposed of.

17. At this stage, the learned Senior Counsel appearing on behalf of the Petitioner in Writ Petition No.2792 of 2016 seeks stay of this order. It will not be possible to grant stay to this order since the allegations made against the Petitioner have been established by virtue of the finding recorded by the Caste Scrutiny Committee.

18. Both these Writ Petitions are accordingly disposed of.

(M.S. KARNIK, J.)

(V.M. KANADE, J.)