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IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12193 OF 2013

Hitesh Bharat Parmar .. Petitioner

Vs.

State of Maharashtra and others .. Respondents

Mr. R.K.Mendadkar, Advocate for the Petitioner.

Ms.Sushma Bhende, AGP for Respondents No. 1 to 3.

**CORAM : S.C.DHARMADHIKARI &
A.A.SAYED, J.J.**

DATED : 10th MARCH, 2016.

P.C.

. This petition under Article 226 of the Constitution of India challenges the order passed by the Divisional Caste Certificate Scrutiny No.1, Navi Mumbai dated 24/10/2013 by which the caste claim of the petitioner has been invalidated.

2. The petitioner – Hitesh Bharat Parmar has approached this Court stating that he was at the relevant time 18 years of age and he was possessing the caste certificate certifying him as belonging to 'Salat' caste which is recognized as 'Vimukta Jati' in the State of Maharashtra. The petitioner had a caste certificate issued by the Competent Authority dated 01/12/2008. The petitioner was desirous of taking admission to the engineering degree course, after

passing XIIth standard HSC examination. He, therefore, moved the respondent No.2-Committee and requested it to validate his caste claim.

3. The scrutiny was undertaken by the Committee during the course of which it was called upon to verify as to whether an ancient and old document in relation to cousin grandfather of the petitioner indicating his caste as 'Hindu-Salat' is genuine and authenticated or not.

4. In relation to this document, it has been observed by the Committee that the petitioner attended the school known as 'Pet Oxford High School'. Against the column 'Race and Caste (with sub caste)', it was stated that petitioner belongs to Hindu - Salat caste.

5. However, the petitioner produced a letter from Mahatma Gandhi Vidyalaya, Municipal School No. 13, Ulhasnagar. The Head Master of that school informed the Committee/Vigilance Cell that the cousin grandfather of the petitioner- Jagdish Ratilal Parmar was indeed a student of Local Board Gujrathi School No.4 at Ulhasnagar. That was a school attended by his cousin grandfather and now that school is taken over and is successor in interest of the Local Board Gujrathi School No. 4.

6. On the strength of this letter of the Head Master confirming the contents of the school leaving certificate issued to the cousin grandfather of the petitioner, the petitioner requested the

Committee to validate his caste claim. The petitioner also relied upon the positive recommendations on this aspect in the Vigilance Cell report dated 30/08/2012.

7. Mr.Mendadkar appearing for the petitioner submitted that the Committee has discarded the above valid piece of evidence by assigning a reason that is patently unsustainable and untenable in law. The entry in the general register of the petitioner's school is not relevant and was not relied upon as a piece of evidence and rather a proof to indicate the caste pre-formation of the State of Maharashtra. It is the cousin grandfather's school leaving certificate carrying the caste entry, which was relied upon. That document cannot be discarded by observing that the petitioner's school - 'Pet Oxford High School' has made an entry in the certificate pertaining to the petitioner against caste column by adding the word 'Salat' which was not earlier on record according to Committee.

8. It was on this argument raised by Mr.Mendadkar that we called upon Ms.Bhende on the earlier occasion to produce the record of the Committee. The original record has been produced for our perusal today. We have carefully perused it and we find that the petitioner's contentions are well founded. The general register of the school which the petitioner's cousin grandfather attended, does not contain any discrepancy. The school leaving certificate of his cousin grandfather also does not contain additions, deletions or

interpolations. The Head Master of the successor school has already certified the genuineness and authenticity of the entries in the register on the basis of which certificate has been issued by the Local Board Gujrathi School No.4, Ulhasnagar. In such circumstances, the Committee could not have discarded this certificate but should have relied upon it and its entries therein. The omission by the Committee of such a valid piece of evidence would enable us to hold that the Committee's order is entirely perverse and vitiated by non-application of mind. The order is, therefore, quashed and set aside.

9. The petition is allowed in the above terms. The Committee now shall take up the claim of the petitioner for verification and scrutiny afresh by accepting the cousin grandfather's school leaving certificate and the entries made therein as a valid piece of evidence. The petitioner shall appear before the Committee on 21/03/2016 at 10.30 a.m. The Committee shall pass a fresh order uninfluenced by its earlier conclusions within a period of 4 weeks from the date of appearance of the petitioner.

10. In the meanwhile and subject to the final order of the Committee, the petitioner's education shall be continued for the engineering course at respondent No.4 -Institution and it shall allow him to attend the classes and appear for examination.

11. The original record produced by Ms.Bhende is returned to her forthwith.

(A.A.SAYED, J.)

(S.C.DHARMADHIKARI, J.)