

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

WRIT PETITION NO. 868 OF 2012

Mangala Raghunath Sawale

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

.....

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

Mr. V. M. Mali, AGP for Respondent Nos.1 to 3 and 5.

.....

**CORAM : SHANTANU S. KEMKAR AND
PRAKASH D. NAIK, JJ.**

DATED : JANUARY 19, 2017.

P.C. :

Heard the parties through their counsel.

2 Feeling aggrieved by the order dated 7th December, 2011 passed by Respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane, by which the petitioner's caste claim has been rejected, the petitioner has filed this petition.

3 Learned counsel for the petitioner submits that though in support of his caste claim the petitioner had submitted

various documents including documents as referred to in paragraph no.2 of the impugned order. The documents referred in paragraph nos. 2(I), (II), (VI), (VIII), (IX), (X), (XIII), (XV), (XVI) & (XVIII) have been discarded by the Committee by observing that the documents are recent period documents i.e. after passing of first Presidential Order of 1950, notifying Scheduled Tribes, these documents cannot be treated as conclusive proof while determining the tribe claim of the applicant. According to the petitioner, these documents were School leaving certificate of his father, School Admission Register of his father and his cousin grandfather etc. Thus, according to the petitioner all these documents were school records in respect of his paternal relatives and they are relevant. It is also the case of the petitioner that these documents are were duly verified by the vigilance cell and there was no adverse remark in respect to genuineness of these documents. In the circumstances, these documents could not have been brushed aside by the Committee merely by observing that these are recent documents i.e. after passing of the first Presidential order.

3 In support of his contention, learned counsel for the petitioner has placed on record a judgment passed by the Division

Bench of this Court in the case of ***Mahesh Pralhadrao Lad Vs. State of Maharashtra***¹. In the said judgment we find that the Division Bench in paragraph no.9 had observed that in 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 (hereinafter referred to as the said Act", for short) or the Rules made there under there is no requirement that the documentary evidence other than pre-constitution, pre-Presidential Notification or State Notification notifying caste or nomadic tribe to be excluded from being considered when a Committee considers an application for verification of Tribe/Caste status for the purpose of issuing a validity certificate. He submits that these observations of the Division Bench have completely given go bye by the Committee while deciding the petitioner's caste claim.

4 On the other hand, learned AGP supported the impugned order. He submits that the petitioner did not produce any valid evidence in support of his caste claim. According to him, in the affinity test also the petitioner was not successful and

1 2009 (2), Mh.L.J. Page 90

therefore, the Committee has rightly rejected the petitioner's caste claim.

5 Having considered the submissions made by the learned counsel for the parties and having gone through the impugned order more particularly paragraph 7 of the impugned order, we find that the documents submitted by the petitioner pertaining to school records in respect of the petitioner's paternal relatives have been discarded merely on the ground that they are recent documents i.e. they are issued after passing of the first Presidential Order of 1950, notifying Scheduled Tribes. In the circumstances, in our considered view, the impugned order being contrary to the law laid down by the Division Bench of this Court in the case of ***Mahesh Pralhadrao Lad Vs. State of Maharashtra (supra)***, the same cannot be sustained.

6 In the result, we set aside the impugned order and remand the matter back to the Committee to consideration the petitioner's caste validity claim afresh.

7 Petitioner to appear before the castes validity committee on 8th February, 2016.

8 The Caste Scrutiny Committee shall decide the petitioner's claim afresh in accordance with law as expeditiously as possible but not later than three months from the date of receipt of copy of this order.

9 Rule is made absolute.

10 Needless to say that since we have set aside the impugned order, the Respondent-University shall declare the petitioner's result which will be subject to the final outcome of the decision, as may be taken by the Caste Scrutiny Committee.

11 Petition is accordingly disposed of.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)