

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

WRIT PETITION NO. 3575 OF 2011

Sharada Ramesh Darade

Age: 29 years, Occ.: Agriculture

Residing at Village Khambale,

Taluka Sinnar, District Nashik.

... Petitioner

V/s.

1 The President, Divisional Caste
Certificate Scrutiny Committee No.1,
Nashik Division, Nashik.

2 The Collector,
Nashik.

3 The State of Maharashtra

4 Shri Bhausahab Nagu Andhale
Residing at Khambale
(Via – Nadurshingote)
Tal-Sinnar, Dist. Nashik.

... Respondents

Mr. Shriram S. Kulkarni for the Petitioner.

Ms. Jyoti Jadhav, A.G.P. for Respondent Nos.1 to 3.

**CORAM : ANOOP V. MOHTA AND
MANISH PITALE, JJ.**

DATE : 23rd NOVEMBER, 2017.

ORAL JUDGMENT [PER : ANOOP V. MOHTA, J.]

1 Taken out from final hearing board.

2 By this Petition, the Petitioner has challenged impugned order dated 21.12.2010 passed by Respondent No.1-The President, Divisional Caste Certificate Scrutiny Committee No.1, Nashik Division, Nashik (for short the “Scrutiny Committee”), thereby cancelled/revoked the caste validity certificate issued by the said Committee itself dated 18.05.2010, and further observed that the Petitioner has committed an offence as contemplated under Section 11(1)(a)(b) of The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukata Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate Act, 2001 (for short “*the Act*”), though it is observed that the Petitioner belongs to the claimed community.

3 The Petitioner belongs to Hindu Vanjari Community (NT-30) which is recognized as a nomadic Tribe-(D) within the State of Maharashtra. On 11.05.1999, the Petitioner was married with Ramesh Ramchandra Darade and on 15.07.2010 her name was included in the ration card. On 17.05.2010, the Petitioner had filed affidavit before the concerned authority for caste certificate. On 08.06.2010 the Sub-Divisional Officer, Sinnar District Nashik, has

issued Caste Certificate to the Petitioner and Respondent No.1 had issued Caste Validity Certificate bearing No.15020 on 18.5.2010. Thereafter, the Petitioner had contested the election and got elected.

4 On 21.07.2010, Bhausahab Nagu Andhale had lodged a complaint with Respondent No.1 challenging the grant of Caste Validity Certificate, which was sent to the Vigilance Squad for enquiry. On 06.10.2010 an enquiry report was sent to Respondent No.1. A show cause notice was issued to the Petitioner as to why her Caste Validity Certificate should not be cancelled. On 21.12.2010, on the basis of the report of Vigilance Squad Respondent No.1, has cancelled the Caste Validity Certificate. Hence the present Petition.

5 There is no issue of caste, in view of the finding arrived at by the Scrutiny Committee based upon the School Leaving Certificates of her father, her sister and cousin dated 29.06.1960, 15.06.2001 and 06.07.1972 respectively, that they belong to Hindu Vanjari. There are other supporting documents to justify the same. Vigilance report also supports the caste claim of the Petitioner. However, the Petitioner's application/affidavit, so filed in support of

the claim, was a caste certificate issued in the name of her sister Mangala. However, in the affidavit it was mentioned that the Petitioner Sharada and Mangala are one and same person. The Petitioner stated used the caste certificate of her sister Mangala as of her. In the enquiry it is revealed that they are two different persons. This was treated to be misused of the caste certificate of sister by the Petitioner, which resulted into revocation of the caste validity certificate granted to her. There is no provision under the Act whereby a caste validity certificate issued can be revoked, by the same authority. However, in view of the above stated misuse of the sister's certificate, though the impugned order was passed, yet the right of the Petitioner to get the validity certificate based upon the other substantial material on record including the supporting certificates of father, real sister and cousin as referred above, ought not to have been overlooked, while granting and/or considering the caste of the Petitioner's caste validating certificates. Petitioner cannot be without any valid caste certificates as the same is the requirement of various institutions/authorities and/or her future generation. This is in the background that based upon the same caste certificates and the material so placed on record by the Petitioner, the Committee, though recorded that the Petitioner

belongs to the Vanjari Community, but yet for the reason of misuse of sister's certificate, cancelled the caste validity certificate in question.

6 We are not dealing with the initiation of criminal proceedings. However, there is no specific mention about the power of revocation under the Act so exercised in the present case. Therefore, for the above reasons, we are inclined to interfere with the order. The case of fraud and misrepresentation, if any, required to be dealt with in accordance with law based upon the complaint but subject to provision of law including power to recall and/or review of its own order. The complainant, though served, is not present even on earlier occasions. He is free to take/initiate proceedings, in accordance with law.

7 The aspect of non grant of caste validity certificate to the Petitioner, need to be re-considered by the competent authority by taking note of the documents/caste certificate placed on record by the Petitioner of her father, sister and cousin showing that they belong to Hindu Vanjari, in the light of provisions of the Act. The caste certificate validation, cannot be denied if she is found to be belongs to Hindu Vanjari community. There are other supporting

caste certificate and the material on record. The Petitioner is permitted to file additional documents to support her caste claim, including her own caste certificate. The Petitioner cannot be treated in society of different caste other than the father and her sister. The initiation of the criminal proceedings itself cannot be the reason not to grant the valid caste certificate.

8 Hence the following order :-

- i) The impugned order dated 21.12.2010 is, therefore, quashed and set aside.
- ii) Liberty is granted to the Petitioner to apply and file additional documents including her own caste certificate, if any, in support of her claim within one month.
- iii) The Respondent-Scrutiny Committee to deal with the caste claim of the Petitioner in accordance with law, as early as possible, within six months thereafter.
- iv) All contentions are kept open.

v) The Petition is allowed and Rule is made absolute in the aforesaid terms with no order as to costs.

(MANISH PITALE, J.)

(ANOOP V. MOHTA, J.)