

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 4152 OF 2014

Shrishail Madolayya Kanthikar

...Petitioner

Versus

State Of Maharashtra,
and others

...Respondents

....

Mr.R.S. Alange, Advocate for the Petitioner.

Mr. Vikas Mali, AGP, for Respondent Nos.1, 2 and 5.

....

**CORAM : SHANTANU KEMKAR &
R. G. KETKAR, JJ.**

DATE : DECEMBER 11, 2017

PC.

1. Heard learned counsel for the parties.
2. Challenging the order dated 29.3.2014 Exhibit "A" passed by Respondent No.2 Divisional Caste Certificate Scrutiny Committee No.1, Solapur whereby the Petitioner's caste claim of he being Beda Jangam, Scheduled Caste has been rejected, the Petitioner has filed this Petition under Article 226 of the Constitution of India.
3. The case of the petitioner is that his real brother, namely, Shivshankar Madolayya Kanthikar has been granted

caste validity certificate holding his caste to be Beda Jangam, Scheduled Caste. In the circumstances, the petitioner's claim could not have been rejected by the Caste Certificate Scrutiny Committee ignoring said caste validity certificate.

4. The learned counsel for the Petitioner places reliance on a Division Bench judgment of this Court passed in the case of ***Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 & others, 2010 (6) Mh.L.J. 401***. He has also pointed out that now the State Government has amended Rule 4 of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 by inserting following :

“Rule No. 4 : - Procedure for obtaining Caste Certificate from Competent Authority.--

(d) validity certificate, if any, of the father in blood relation or real uncle or any other relative of the applicant in blood relation from paternal side granted by the Scrutiny Committee;

If such validity certificate has been submitted, competent authority will issue caste certificate without asking for other documents of proof by considering that validity certificate as an important evidence.

In Rule 5 of the principal rules, to sub-rule (6) the following proviso shall be added, namely :--

“Provided that, if validity certificate of the father in blood relation or real uncle or any other relative of the applicant in blood relation from paternal side granted by the Scrutiny Committee has been submitted by the applicant, the Competent Authority shall issue Caste Certificate without asking for any other documents or proof by considering that validity certificate as an important evidence”

5. In the circumstances, according to the learned counsel for the Petitioner, as per said Rule the petitioner's blood relation i.e. his real brother is holding caste validity certificate granted by the Scrutiny Committee and, therefore, the Petitioner is entitled for the same. The learned A.G.P. has not disputed that the State has amended said Rule notified on 24.11.2017 as aforesaid.

6. In the circumstances, we allow this Petition and grant reliefs to the petitioner in terms of prayer clauses (a) and (b), which read thus:

“(a) This Hon'ble Court be pleased to issue Writ of Certiorari and or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned judgment and order dated 29-3-2014 passed by the Respondent No.2 committee with further direction to Respondent No.2

committee to issue certificate of validity in respect of caste certificate dated 07-3-1981 granted by the Tahsildar and Executive Magistrate, Solapur.

- (b) That this Hon'ble Court be pleased to hold and declare that the caste certificate dated 07-3-1981 granted to the petitioner by the Tahsildar and Executive Magistrate, Solapur is valid, legal and subsisting.”

7. Petition is disposed of accordingly.

(R. G. KETKAR, J.)

(SHANTANU KEMKAR, J.)

Deshmane (PS)