

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 4439 OF 2014

Naresh Pyarelal Pardesi

.....Petitioner

V/s.

State of Maharashtra through
Dept of Social Welfare, Mantralaya,
Mumbai and others

....Respondents

WITH
WRIT PETITION NO. 4440 OF 2014

Chandan Pyarelal Pardesi

....Petitioner

V/s.

State of Maharashtra through
Dept of Social Welfare, Mantralaya,
Mumbai and others

....Respondents

Mr. Dhairyasheel Sutar for Petitioner.
Mr. A. I. Patel AGP for Respondent no. 1 & 2
Mr. Nitin Deshpande for Respondent no. 4 in both petitions
Mr. Prabhakar Jadhav for Respondent no. 3 in WP 4439 of 2014
Mr. A. A. Garge for Respondent no. 3 in WP 4440 of 2014

**CORAM : NARESH H. PATIL &
Z. A. HAQ, JJ.**

DATE : 27th SEPTEMBER 2017.

P.C. (Per: Z.A. Haq, J.)

1 Petitioners in these two petitions are real brothers. The petitioners have challenged the decision of the Caste Certificate Scrutiny Committee in their respective cases invalidating their caste certificates. As the relevant facts and the points raised by the petitioners in both these petitions are common, these petitions are disposed by common order.

2 Chandan Pyarelal Pardesi (Petitioner in Writ Petition No. 4440/2014) was appointed with Municipal Council under the Apprenticeship Act, 1961 as a 'Plumber' on 20/09/1993. This petitioner claimed that he belonged to “Kori” caste which is recognised as Scheduled Caste in the State of Maharashtra.

Naresh Pyarelal Pardesi (Petitioner in Writ Petition No. 4439 of 2014) got certificate of validity from the Caste Certificate Scrutiny Committee on 22/02/2005, to the effect that he belonged to “Kori” caste which is recognised as Scheduled Caste in the State of Maharashtra. This petitioner was appointed as clerk in the respondent no. 3 school on 07/06/1995.

P.I.L. No. 19 of 2010 was filed before this Court making a grievance that the caste validity certificates issued in favour of both the petitioners and some of their family members were obtained by them illegally. P.I.L. No. 19 of 2010 was disposed of by Division Bench of this Court by the following order:

“1. Learned counsel for the petitioner seeks permission to withdraw the present PIL with liberty to make a representation for redressal of his grievance to respondent no. 1, within a period of three weeks and prays that respondent no. 1 may be asked to decide the same within a stipulated period.

2. In the circumstances, PIL is disposed of as withdrawn with liberty as prayed for. If the petitioner makes a representation to respondent no. 1, we expect respondent No. 1 to decide the same finally, in accordance with law and the procedure, within a period of eight weeks from the date of receipt of such representation.”

3 After the disposal of the P.I.L., Caste Certificate Scrutiny Committee conducted inquiry regarding the caste claim of the petitioners and by the impugned decisions concluded that the petitioners' claim that they belong to “Kori” caste which is recognised as Scheduled Caste in the State of Maharashtra cannot be accepted. Caste Certificate Scrutiny Committee has invalidated the caste certificates of the petitioners.

4 The learned Advocate for the petitioners has submitted that the Caste Certificate Scrutiny Committee has no authority to review its earlier decision by which the caste certificate of Naresh Pyarelal Pardesi was validated. On merits, it is submitted that Caste Certificate Scrutiny Committee has not considered the report of the Police Vigilance Cell and the statements recorded by the Police Vigilance Cell and other documents placed on record by the petitioners which show that the petitioners belong to “Kori” caste.

5 We have examined the documents placed on the record of the petition. The learned Assistant Government Pleader made available the original record also.

The caste validity certificate which was issued in favour of Naresh Pyarelal Pardesi on 22/02/2005 shows that the Caste Certificate Scrutiny Committee had not conducted any inquiry before issuing the caste validity certificate. The learned Advocate appearing for the petitioners has not been able to point out that the regular inquiry was conducted by the Caste Certificate Scrutiny Committee before issuing validity certificate dated

22/02/2005. The Division Bench of this Court while disposing the P.I.L. No. 19 of 2010 granted liberty to Dashrath Raghuveer Pardesi (Petitioner in P.I.L. No. 19 of 2010) to make representation to the Secretary, Department of Social Justice and Public Assistance, Mantralaya, Mumbai and directed that if such representation is made, it should be decided in accordance with law. It appears that on representation of Dashrath Raghuveer Pardesi, Caste Certificate Scrutiny Committee conducted an inquiry. The petitioners participated in the inquiry and never raised any objection to the authority of the Caste Certificate Scrutiny Committee for conducting the inquiry.

In these facts, we are not inclined to accept the submission made on behalf of the petitioners that the Caste Certificate Scrutiny Committee could not have conducted inquiry again as it is not conferred with powers to review its earlier decision.

6 As far as the contentions of the petitioners that the documentary evidence on record shows that they belong to “Kori” caste also cannot be accepted. The petitioners have not been able to produce any pre-constitution document showing that forefathers/blood relatives of the petitioners belong to

“Kori” caste. The entries regarding caste of forefathers/blood relatives of the petitioners are to the contrary, some entries are to the effect that they belong to “Hindu Par Koshti”, “Pardesi Koshti”, “Pardesi”, “Hindu Backward Class”. The Caste Certificate Scrutiny Committee has properly considered the evidence on record and has rightly rejected the claim of the petitioners.

7 We do not find any infirmity and illegality in the impugned decision which necessitates interference by this Court in the extra ordinary jurisdiction.

8 The Writ Petitions are dismissed. In the circumstances, the parties to bear their own costs.

9 Naresh Pyarelal Pardesi (Petitioner in Writ Petition No. 4439 of 2014) has made prayer in the petition for interim relief to the effect that during the pendency, the respondent no. 3 in the petition be restrained from terminating his services. However, this petitioner has not made any substantive prayer against respondent no. 3. At the time of hearing, the learned Advocate for this

petitioner made submission that this petitioner was appointed on the post available for general candidate. However, in paragraph no. 4 (a) of the petition, it is pleaded that the petitioner was appointed as clerk on 07/06/1995 on the post reserved for scheduled caste candidate. As the petitioner has not made any substantive prayer regarding his entitlement to continue on the post and as the petitioner has not placed any documents on record to show that he was appointed in the post available for general candidate, we have not adverted to the issue.

Similarly, Chandan Pyarelal Pardesi (Petitioner in Writ Petition No. 4440 of 2014) has pleaded in the petition that he was appointed on the post available for general candidate. This petitioner has also not placed any documentary evidence on record to substantiate his claim and has not made any substantive prayer in the writ petition against his employer. Therefore, we have not adverted to the issue of entitlement of this petitioner to continue in employment.

[Z. A. HAQ, J.]

[NARESH H. PATIL, J.]