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

WRIT PETITION NO. 7030 OF 2015

Mrs. Naik Sindhu Arvind
Aged 55 years, residing at
B/2/5/8. Sector 16, Vashi Navi Mumbai-400703.

...Petitioner

Vs.

1. The State of Maharashtra through
its Secretary, Social Justice Dept., Mantralaya
Urban Development Department,
Mumbai-400032.
2. Divisional Caste Certificate Scrutiny Committee No.3
Through its Member Secretary
Having its office at Commerce Zone,
Behind IT Market Marg, Yerwada, Pune-411005.
3. Sub Divisional Officer
Ambegaon Junnar Sub Division, Dist: Pune.
4. Mrs.Walunj Anjali Ajay
@ Mrs. nadhe Maya Kundlik
Room No.3/8, Chittodgad
C.H.S. Ltd., Plot No.22,
Sector 16, Vashi, Navi Mumbai.

...Respondents

Mr. R.K. Mendadkar, Advocate for the Petitioner
Mr. Vikas Mali, AGP for the State Respondent Nos. 1 to 3
Mr. Manoj Bhatt, Advocate for Respondent No. 4

**CORAM : NARESH H. PATIL &
M.S. KARNIK, JJ.
DATED: 1ST MARCH, 2017**

ORDER (PER M.S. KARNIK, J.)

Rule, returnable forthwith. Heard finally by consent of the parties.

2. The Petitioner by this Petition challenges an order dated 6th April, 2015 passed by the Divisional Caste Certificate Scrutiny Committee No.3 (herein after referred to as the said Committee for short) whereby the caste certificate dated 26th February, 2015 issued by the Respondent No.2 Competent Authority was validated. The caste certificate was issued in favour of Respondent No.4 as belonging to Kunbi – Other Backward class.

3. The Petitioner contested the election of the Navi Mumbai Municipal Corporation from Ward No.62 which was reserved for Backward Class citizens – women. The Respondent No.4 also contested against the Petitioner. The Respondent No.4 was declared as elected. The Petitioner filed an Election Petition in the Competent Court challenging the said election which is still pending.

4. Consequent to the filing of the election petition before the competent Court the Petitioner came to know that the Respondent No.4 does not belong to the Other Backward Class (OBC), but she belongs to a higher caste. According to the Petitioner caste certificate issued in favour of the Respondent No.4 was contrary to the Caste Certificate Rules 2012. According to the Petitioner the school leaving certificate of the Respondent No.4 shows her caste as 'Maratha'. The school record of the father of Respondent No.4 does not indicate his caste, but it merely states Religion 'Hindu'. The Petitioner doubted the genealogy filed by the Respondent No.4 as according to her the same is not based on any documents. According to the Petitioner the Committee relied upon documentary evidence relating to one Gitikom Yashwant Nadhe who is not the blood relative of Respondent No.4 from the paternal side. The Petitioner would contend that the Committee committed an error in heavily relying upon the Vigilance Report dated 25th March, 2015 submitted by its Vigilance Cell.

5. On the other hand the learned AGP on behalf of the Government and the learned Counsel for Respondent No.4 supported the impugned order passed by the Respondent No.2 Committee. He

has also taken us through the original record.

6. The application made on behalf of Respondent No.4 clearly indicates that the same was filed by the father of Respondent No.4. Application form itself provides the manner in which an application is to be made. There is no material suppression on the part of the Respondent No.4 or any false information supplied in the application form. Merely because the father of the Respondent No.4 has made an application on behalf of the Respondent No.4 does not make the application defective. There is, thus substantial compliance with the rules while applying for the caste certificate.

7. The Vigilance Cell Report is in favour of the Respondent No.4. The Vigilance Cell has independently verified the documents produced by the Respondent No.4 in support of her caste claim.

8. The Committee has taken into consideration the Vigilance Cell report and the documents produced on record to come to the conclusion that the Respondent No.4 belongs to the Kunbi – OBC caste. The Committee has relied upon a document of the year 1915

being the birth extract of Sonubai Yeshwanta Nadhe who happens to be in the relation of Respondent No.4. The Committee also relied upon the birth extract of the year 1917 of the Respondent No.4's relative, the details of which find place in paragraph two of the findings of the Scrutiny Committee's order. The Committee has also observed that the said document is taken into consideration as the Respondent No.4 proved the relation on the basis of the revenue extracts produced. Reliance is also placed on a death certificate of Respondent No.4's great grandmother Gitikom Yashwant Nadhe which indicates her caste as 'Kunbi'. The death certificate is of the year 1917.

9. The Respondent No.2 Committee on the basis of the material on record has arrived at a finding of fact that the Respondent No.4 belongs to the Kunbi – OBC caste. Respondent No.2 Committee has given reasons in support of its findings and we do not see any perversity in its reasoning so as to warrant interference in the findings of fact so recorded.

10. The Petitioner has in any case filed an election petition

challenging the election of the Respondent No.4 and the same is pending before the Competent Court. In these circumstances we are not inclined to interfere with the impugned order passed by the Respondent No.2 Committee. The Petition is accordingly rejected with no order as to costs.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)