

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4367 OF 2016

Vilas Shivaji Kshirsagar } Petitioner
versus
State of Maharashtra and Ors. } Respondents

WITH
WRITPETITION NO. 7114 OF 2016

Shivaji Kamu Kshirsagar } Petitioner
versus
State of Maharashtra and Ors. } Respondents

Mr. R. K. Mendadkar for the petitioners.

Mr. P. G. Sawant - AGP for respondent
nos. 1 to 3 in WP/4367/2016 and for
respondent nos. 1 and 2 in
WP/7114/2016.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- FEBRUARY 15, 2017

P.C. :-

1. The petitioners in these writ petitions have challenged an order dated 26th February, 2016 passed by the caste scrutiny committee invalidating his claim as belonging to Hindu Nhavi Banjara.

2. The petitioners claim that the caste certificates were issued to the petitioners, on the strength of which, they were employed by respondent no. 3. The Nhavi Banjara caste is recognised as

Vimukta Jati. The caste certificates were forwarded for verification and scrutiny to the competent scrutiny committee, but it has invalidated the same.

3. The argument of Mr. Mendadkar is that the committee failed to notice that there are two caste validity certificates issued in favour of close relatives from the paternal side. There are no reasons assigned as to why this crucial document has been ignored in the present case. The argument of the respondents is that though the petitioners produced copies of such certificates, they have not been able to establish their relationship with that of these certificate holders. On the other hand, Mr. Mendadkar would submit that these are close relatives from the paternal side. The family tree and genealogy was already on record. In any event, the vigilance cell, when it visited the concerned area, it obtained the information relating to these two persons, namely, Digvijay Mahadeo Kshirsagar and Prerana Mahdeo Kshirsagar. These persons are belonging to the same family. Mahadeo Krishna Kshirsagar is the common ancestor.

4. It is in these circumstances when there is no affidavit in reply controverting this factual position that we allow this writ petition. We quash and set aside the impugned order of the committee. The matter shall be placed before the committee for a

decision a fresh. The petitioner shall file an affidavit disclosing the relationship with that of the two validity certificate holders and would also be able to place the genealogy or family tree on record. The committee shall then consider the claim on the basis of these materials. It shall pass a fresh order as expeditiously as possible and within a period of four weeks from today without being influenced by any of its earlier conclusions.

5. There is a general perception that even when such orders are passed by this court, the committee does not take into consideration the observations and findings in the order, but passes another mechanical and stereo type order invalidating the claims.

6. If this position is noticed by us and particularly after the matter is sent back to this Divisional Caste Certificate Scrutiny Committee No. 1, Solapur, we would not hesitate to take action against the members of such committee and proceed in contempt so also deprive them of their status as committee members. Needless to clarify in both matters that if the scrutiny committee validates the caste certificates of the petitioners, their employer shall grant the appropriate reliefs.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)