

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6229 OF 2015

Vasant Gopalrao Lade	...	Petitioner
Vs.		
State of Maharashtra and others	...	Respondents

Mr. R. K. Mendadkar for Petitioner.
Mr. V. Mali, AGP for Respondents No.1 and 2.
Ms Chaitrali Deshmukh for Respondent No.3.

**CORAM : SHANTANU KEMKAR &
R. G. KETKAR, JJ.
DATE : DECEMBER 12, 2017**

P.C. :

Challenging the order dated 06.06.2015 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nashik whereby the Petitioner's caste claim of being "Thakur, Scheduled Tribe" has been rejected, Petitioner has filed this Petition. According to the Petitioner, his first cousin, namely, Prakash Vasudeo Lade, has been held to be belonging to the Scheduled Tribe vide order passed by this Court on 22.02.2017 in Writ Petition No.5602 of 2015 (*Prakash Vasudev Lade Vs. State of Maharashtra and others*). It is also the case of the petitioners that his other blood relatives are also adjudicated by the Caste Scrutiny Committee as of being "Thakur, Scheduled Tribe".

2. Having considered the submissions made by the learned Counsel for the parties and having gone through the orders passed by this Court from time to time, including the order passed in the case of ***Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, 2010 (6) Mh.L.J. 401***, we are of the view that this aspect of the matter needs to be considered by the Caste Scrutiny Committee afresh. In the case of ***Apoorva Vinay Nichale (supra)***, Division Bench of this

Court, in paragraphs 7 and 9, has observed thus,

“7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.

9. In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the school leaving certificate of Petitioner's father and noticing that the original caste written on it was 'Thakur' and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without complying with the procedure prescribed by section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been one illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore, where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the Petitioner. ”

3. In view of the aforesaid, we are of the view that the reasons assigned by the Committee for rejection of the Petitioner's claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of **Apoorva Vinay Nichale** (*supra*).

4. As a result, we allow the Petition and set aside the impugned order. Respondent No.2 Committee is directed to reconsider the Petitioner's caste validity claim and take fresh decision keeping in view the fact that the Petitioner's real brother has been granted caste validity certificate as also the law laid down by this Court in the case of **Apoorva Vinay Nichale** (*supra*), as expeditiously as possible and in any case not later than two months from the date of appearance of the petitioner before the said Committee. Petitioner shall appear before the Respondent No.2-Committee on 19.12.2017 at 11.00 a.m.

5. In case any adverse order is passed by the Committee, the same shall not be given effect to for two weeks thereafter to enable the Petitioner to seek appropriate relief from the appropriate forum.

6. The Petition stands disposed of as such.

(R. G. KETKAR, J.)

(SHANTANU KEMKAR, J.)