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

WRIT PETITION NO. 6533 OF 2017

WITH

CIVIL APPLICATION NO. 1599 OF 2017

Sudhir Suresh Sahu ...Petitioner

Versus

The Divisional Caste Scrutiny Committee, ...Respondents
Amravati & Ors.

Mr. D.S. Pagare, Adv. for the Petitioner.

Mr. C.P. Yadav, AGP for the Respondent No.1.

Mr. Bhushan Mahadik, with Fauzana Khan, Adv. for
Respondents Nos. 2 and 3.

**CORAM: B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**

DATED: 18th July 2017

PC:-

1. The Petitioner has approached this Court challenging the order passed by the Respondent No.1 – Divisional Caste Scrutiny Committee, Amravati Division, Amravati dated 5th April 2017, vide which the claim of the Petitioner of belonging to Halba ST is held to be invalid.

2. The present case is classic example of how a person taking advantage of some synonymy in the caste to which he belongs and the tribe which is notified as a ST, by ingenious means has not only taken the authorities for a right but even this Court.

3. The Petitioner's father originally belongs to Kasma, Dist. Darbhanga in the State of Bihar. It appears that the Petitioner's forefathers are Halwa (Cooks specialised in Sweet making) by profession and as such their caste entries are recorded as Halwa in the State of Bihar. Taking advantage of the synonymy of Halwa with Halba tribe, which is notified as ST in Maharashtra State, the Petitioner obtained a caste certificate from the SETU office, Murtijapur, Akola District Maharashtra certifying that the Petitioner belongs to Halba ST. Since the Petitioner claims to belong to Halba ST his claim came to be referred to the Scrutiny Committee for considering its validity.

4. In the meantime the Petitioner had applied for admission for the M.B.B.S. Course from the reserved

category meant for ST. The Petitioner was allotted to the Respondent No.2 college. The Respondent No.2 refused to grant admission to the Petitioner since he did not possess validity certificate. As such the Petitioner approached this Court by way of Writ Petition No. 7944 of 2013, wherein this Court by an interim order dated 30th August 2013 directed the Respondent No.2 herein to provisionally admit the Petitioner in the first year MBBS, upon production of the original caste certificate. Said Petition is still pending before this Court. In the meantime the Scrutiny Committee has invalidated the claim of the Petitioner by the impugned order. Being aggrieved thereby, the Petitioner has approached this Court.

5. We find that the Scrutiny Committee has rightly rejected the claim of the Petitioner. The Scrutiny Committee has also received a report from the Collector, Akola, wherein upon inquiry, it was found that the Petitioner had obtained caste certificate of Halba ST by paying bribe to one Shuklodan Wankhede. Even otherwise since the Petitioner originally belongs to State of Bihar, he would not have been entitled to

get benefits of ST in the State of Maharashtra as held by the Apex Court in the case of ***Shweta Santalal Lal Vs. State of Maharashtra***¹. However, it appears that by suppressing all these facts, he obtained an interim order from this Court. The record would reveal that all the certificates of the Petitioner's forefathers show that they belong to Halwa Community and that too in the State of Bihar. We have perused original record. The record would reveal that though the Vigilance Cell has attempted to make an inquiry with the Petitioner, he has not cooperated.

6. It could thus be seen that, the Petitioner has practised fraud from inception only in order to get benefit of ST, though he cannot even be remotely claim to be belonging to ST. Firstly, community Halwa and Halba are totally different. As it could be seen from the various judgments of this Court and Apex Court, the people belonging to Halba tribe, originally resided in the areas of Bastor and thereafter migrated to some areas in the State of Maharashtra and Madhya Pradesh.

1 2010(2) Mh.L.J. 904.

7. We, therefore, find that the Petitioner by playing a fraud has not only obtained caste certificate but also taken this Court for a ride and obtained an interim order thereby directing Respondent No.2 to admit the Petitioner to seat reserved for ST. We have no hesitation to hold that on account of fraudulent act of the Petitioner, one eligible student who really belongs to ST, has been deprived of an admission in the MBBS Course.

8. We, therefore, see no merit in the Petition. Hence Writ Petition is dismissed. While dismissing the Petition we direct the Respondent – State to register an FIR against the Petitioner at the Police Station within whose jurisdiction the fraudulent caste certificate is issued to the Petitioner. We further direct that the District Superintendent of Police, Akola to personally monitor the investigation in the said case and find out as to who are the other persons in addition to the Petitioner, in helping the Petitioner in getting a fraudulent certificate. We do hope that the Superintendent of Police, Akola will take the matter to the logical end.

9. In view of dismissal of Writ Petition, Civil Application does not survive.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)