

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 9957 OF 2017

Mr. Amit Chandrakant Lonkar

.....Petitioner

V/s.

The State of Maharashtra through
the Secretary and others

....Respondents

Mr. A. D. Khillare a/w Mr. Anil S. Chavan for the petitioner.

Mr. A. P. Vanarase AGP for the State.

Mr. A. A. Garge for the respondent no. 3.

Mr. R. Mantri i/b Mr. S. B. Shetye for the respondent no. 5.

Mr. P. S. Dani, senior advocate a/w Mr. Chetan Nagare for respondent no. 6.

**CORAM : SMT. VASANTI A. NAIK,
RIYAZ I. CHAGLA, JJ.**

DATE : NOVEMBER 3, 2017.

P.C.

By this petition, the petitioner challenges the order of the respondent-Caste Verification and Scrutiny Committee dated 29/03/2017 validating the claim of the respondent no. 6 of belonging to Kunbi (Other Backward Classes).

The petitioner and the respondent no. 6 had contested the election to the Municipal Council on a seat earmarked for the 'O.B.C.' The respondent no. 6 claimed to belong to Kunbi (caste) which falls in the 'O.B.C.' The respondent

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no. 6 was elected as the Municipal Councillor. The petitioner challenged the caste certificate issued in favour of the respondent no. 6 on the ground that, the respondent no. 6 belongs to the Maratha caste. A complaint was made by the petitioner before the Scrutiny Committee. While verifying the caste claim of the respondent no. 6 of belonging to Kunbi caste, the Scrutiny Committee considered the complaint made by the petitioner and also granted a hearing to him. On an appreciation of the material on record, the Scrutiny Committee recorded a finding that the respondent no. 6 belongs to Kunbi caste which falls in the 'O.B.C.' Being aggrieved by the order of the Scrutiny Committee, the petitioner has filed the instant petition.

The learned counsel for the petitioner submitted that the Scrutiny Committee was not justified in validating the claim of the respondent no. 6 of belonging to Kunbi caste. It is submitted that several documents that were tendered by the petitioner before the Scrutiny Committee would show that the caste of the near relatives of the respondent no. 6 was recorded as Maratha. It is submitted that merely with a view to contest the election on a seat earmarked for the 'O.B.C.', the respondent no. 6 wrongly claimed to belong to Kunbi caste. It is submitted that in the vigilance report there is a clear observation that there was some overwriting in the entry in the caste column in the document pertaining to the great-grandfather of the respondent no. 6 and the word 'Kunbi' was inserted in the said document subsequently. It is stated that the Scrutiny Committee committed an error in relying on the said document while validating the caste claim of the respondent no. 6. It is

submitted that the Scrutiny Committee committed an error in granting much weightage to the document of the year 1909 in which the caste of the great-grandfather of the respondent no. 6 was recorded as 'Kunbi'. It is submitted by by taking this Court through some documents annexed to the petition that this Court may re-appreciate the material on record to hold that the Scrutiny Committee had committed an error in validating the caste claim of the respondent no. 6.

On hearing the learned counsel for the parties and on a perusal of the impugned order as also the documents that are annexed to the writ petition, it appears that there is no scope for interference with the impugned order in exercise of the writ jurisdiction. It would not be proper for this Court to re-appreciate the material on record and re-consider whether the respondent no. 6 belongs to the Kunbi caste or not. It is not the case of the petitioner that some material documents submitted by the parties were not considered by the Scrutiny Committee. We have perused the order of the Scrutiny Committee. The Scrutiny Committee has referred to the complaint made by the petitioner and the grounds raised therein. Though there is an observation in the vigilance report that there is some overwriting in the old document of the year 1915 pertaining to the great-grandfather of the respondent no. 6, the Scrutiny Committee has not contradicted the same. The Scrutiny Committee has discarded the said document and has not relied on the same while validating the caste claim of the respondent no. 6. For validating the caste claim of the respondent no. 6, the Scrutiny Committee has mainly relied on an old

document of the year 1909 which pertains to the great-grandfather of the respondent no. 6 in which the caste of the great-grandfather of the respondent no. 6 is clearly recorded as 'Kunbi'. The vigilance cell has verified the document of the year 1909 and has recorded in the report that the caste of the great-grandfather of the respondent no. 6 is recorded as 'Kunbi', in the said document. The Scrutiny Committee has observed in the impugned order that the old document of the year 1909 would have a greater probative value than the comparatively recent documents. Hence, by relying on the old document of the year 1909 and a few other documents, the Scrutiny Committee validated the caste claim of the respondent no. 6. We do not find any perversity or any apparent error in the order of the Scrutiny Committee so as to interfere with the same in exercise of the writ jurisdiction. Since this Court is not entitled to sit in appeal while considering the correctness or otherwise of the order of the Scrutiny Committee, it would not be proper to re-appreciate the entire material on record to consider whether the finding recorded by the Scrutiny Committee could be reversed.

In the result, the writ petition is dismissed. No order as to costs.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A. NAIK, J.]