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

WRIT PETITION NO. 12213 OF 2016

Vahidpasha Saitan Shaikh ... Petitioner
Versus
State of Maharashtra & Ors ... Respondents

Mr. R.K. Mendadkar for the Petitioner.
Mr. N.C. Walimbe, AGP for the State – Respondents Nos. 1 to 3.
Mr. Dilip B. Shinde, for Respondent No.4.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**
DATED: 4th OCTOBER 2017

PC:-

By this Writ Petition, the petitioner challenges the order of the Scrutiny Committee, dated 20th August 2016 validating the claim of the respondent No.4 of belonging to 'Sutar' Other Backward Classes (O.B.C.).

The petitioner had contested the elections to the gram panchayat against the respondents No. 4 and the respondent No.4 was declared to be elected. Since the respondent No.4 had claimed to belong to 'Sutar' caste which is included the other backward classes, for which the seat was reserved and since according to the petitioner, the caste validity certificate was wrongly issued to the respondent no.4 by the Caste Scrutiny Committee at Solapur the present petition is filed by the petitioner, who is defeated in the election.

Shri Mendadkar, the learned counsel for the petitioner submitted that the Scrutiny Committee at Solapur was not justified in validating the caste claim of the respondent no.4 by the impugned order dated 23rd August 2016. It is submitted that the father of the respondent No.4 is a resident of village Lohara which falls in Osmanabad district and the respondent No.4 has wrongly secured the caste certificate from the Competent Authority at Solapur instead of the Competent Authority, at Osmanabad. It is submitted that in the year 1977 the respondent No.4 shifted from Lohara to Solapur after she was married. It is stated that as per the provisions of the Rules, only the Competent Authority for the area where the candidate resides on the deemed date would be competent to issue the caste certificate. It is submitted that on the deemed date, since the father of the respondent No.4 resided at Lohara, the Competent Authority at Osmanabad was empowered to issue caste certificate in favour of the respondent No.4. It is stated that since the caste certificate was not secured by the respondent No.4 from the authority competent to issue the same, the said caste certificate as also the order of the Scrutiny Committee validating caste claim of the respondent No.4 are liable to be set aside.

The prayer made by the petitioner is denied by the respondent No.4. It is stated that the petitioner has not annexed any document to the petition to show that on the deemed date viz, 13th October 1967 the father of the petitioner was a permanent resident of village Lohara. It is submitted that the documents on which the petitioner has relied are comparatively recent documents and they do not refer to the residence of the father of

the respondent No.4 on 13th October 1967 i.e. the deemed date.

In the circumstances of the case, we are not inclined to grant the prayers made in the Writ Petition. The petitioner has not pointed out any material to show that the father of respondent No.4 was a permanent resident of village Lohara on the deemed date i.e. 13th October 1967. Some documents are relied on by the petitioner, in support of her case that the respondent No.4's father was residing at Lohara but these documents are of the year 1977 and 2016 and there is no document on record to show that the father of the respondent No.4 was a permanent resident of Lohara on the deemed date. In the absence of any material to support the claim made by the petitioner, we are not inclined to grant the prayer made in the Writ Petition.

In the result, the Writ Petition fails and is dismissed with no order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A NAIK, J.)