

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9608 OF 2015

Narendra Rajaram Khade .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.Mihir Desai, Senior Advocate i/b Mr.Sagar G.Talekar, for the
Petitioner.
Mr.S.A.Sawant, for Respondent No.4.
Ms.R.A.Salunkhe, AGP for State.

**CORAM : NARESH H. PATIL &
M.S.KARNIK, JJ.**

09th JANUARY, 2017

PC. :

. Rule, returnable forthwith. Heard finally by consent
of the parties.

2. The petitioner who claims to be a sitting member of
the Gram Panchayat - Rasal, Post – Pali, Taluka – Sudhagad,
Dist. Raigad challenges an order passed by the Divisional Caste
Scrutiny Committee (for short 'Committee') dated 16/09/2015.
Learned Senior Counsel appearing for the petitioner submits

that the revenue document is placed on record to establish that Ramchandra was father of Rajaram. Learned Counsel has placed his reliance on document at page 98 - Exhibit 'D' - paper book which is part of the revenue record. He further submitted that the Committee failed to consider the affidavit filed by the petitioner before the Committee describing the family tree wherein name of Pradeep Harishchandra Khade was mentioned as relative of the petitioner. Learned Counsel submitted that the Committee ought to have considered these important documents before arriving at the conclusion.

3. Learned Counsel appearing for respondent No.4 submits that school record relied upon by the petitioner does not support the petitioner's contention in respect of caste and one of the cousin uncle of the petitioner namely Mahadev Bapu Khade failed to establish his caste claim before the Committee. Learned Counsel further submits that the petitioner is 'Maratha' by caste and had wrongly and illegally claimed benefit of 'Kunbi' (OBC).

4. We perused the record placed before us. The document at page no. 96 was not before the Committee. The Committee observed that the petitioner failed to establish that he is son of Rajaram. The Committee further observed that sufficient revenue record was not placed by the petitioner to establish the relationship with his father and grandfather. The Committee further refers to the validity certificate issued in favour of Pradeep on 04/07/2007 which was relied upon by the petitioner before the Committee.

5. In the facts, we find that fresh look at the material which was placed before the Committee and now before this Court is necessary. We find it appropriate to observe that the Committee would go through the additional material placed on record before this Court by both the parties and thereafter re-appreciate the issues and reach a final conclusion.

6. The petitioner would be at liberty to produce additional material before the Committee. The respondent –

complainant is also entitled to produce such material which was not earlier produced before the Committee. In case, the Committee desires to call for fresh vigilance cell report on any of the issues which are necessary for appropriate determination of the claim of the petitioner then, the Committee is entitled to do so.

7. In the facts, we find it appropriate to remand the matter back to the Committee. In view of the observations made by us as above, following order is passed.

ORDER

- a) Petition is partly allowed.
- b) The impugned order passed by the Committee dated 16/09/2015 is quashed and set aside.
- c) The matter is remanded back to the Committee.
- d) The Committee is directed to hear the parties and after following necessary procedure decide the caste claim of the petitioner within 3 months from the date of the receipt of the order passed by this Court

on its own merits.

e) The parties shall appear before the Committee on 23/01/2017.

8. It is clarified that we have not expressed any opinion on merits of the claim of the contesting parties.

9. Rule is partly made absolute in the above terms.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)