

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 10392 OF 2017

Omkar S/o Kailas Kamble

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

*Mr.Anil Golegaonkar with Mr.Madhur Golegaonkar, for the Petitioner.**Mr A.A. Kumbhakoni, Advocate General a/w Mr.Akshay Shinde, Special Counsel and Mr.Sandeep Babar, AGP for the State-Respondents.*

**CORAM : SHANTANU KEMKAR &
G. S. KULKARNI, JJ.****DATE : SEPTEMBER 27, 2017**

PC.:

1. Rule returnable forthwith. Heard the learned Counsel for the parties.

2. Feeling aggrieved by the order dated 2nd September,2017 ("Exhibit K") passed by respondent no.2 – the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad (for short 'the Committee'), the petitioner has filed this petition.

3. Briefly stated, the petitioner had applied for grant of caste certificate claiming himself to be of “Koli Mahadev” scheduled tribe. After necessary inquiry, the caste certificate of he being of 'Koli Mahadev' Tribe was issued by the competent authority. The said caste certificate was thereafter submitted for its validation before respondent no.2 Committee.

4. In support of his claim for validation of caste certificate the petitioner submitted 22 documents. The details of the said documents are mentioned in paragraph 3 of the impugned order. Apart from the said documents in support of his claim that he belongs to “Koli Mahadev”, the petitioner had also submitted caste validity certificate of his father Kailas Gyanoji Kamble and his uncle Vikas Gyanuji Kamble. The committee after considering the documentary evidence as also the report of the vigilance cell, rejected the petitioner's claim for validation of the caste certificate.

5. According to the petitioner, the reasons assigned by the committee for not accepting the validation certificate of his father and uncle, cannot be sustained. He submits that the committee has raised doubt about the petitioner being 'Koli Mahadev’ scheduled tribe, on the basis of vigilance officer's report to the effect that in the school extract of

Laxman Gyanuji Kamble the caste “Hindu Koli (Mahadev)” has been mentioned and in the school extract of Vikas Gyanuji Kamble also the caste “Hindu Koli (Mahadev)” has been mentioned.

6. The petitioner referring to the Vigilance Officer's report has stated that this is clear misreading of the evidence as in the vigilance cell report in respect of aforesaid two certificates, the mention is only “Koli Mahadev” and not ““Hindu Koli (Mahadev)”. In the circumstances, according to the petitioner, the impugned order being based on misreading of the evidence, is liable to be set aside. It is also the case of the petitioner that his father and uncle were granted the caste validation certificates after due vigilance cell inquiry and the same could not have been discarded on the aforesaid ground which is non-existence. So far as the discrepancy in the entry in regard to Gyanu Asaroba Kamble noticed by the Committee, the learned Counsel for the petitioner submits that in the said entry no caste has been mentioned and therefore, it cannot be taken against the petitioner.

7. Having considered the submissions made by the learned Counsel for the parties and having gone through the impugned order, we are of the opinion that the impugned order is based on misreading of Vigilance Officer's report and is also contrary to the law laid down by the

Division Bench in the case “*Devika S. Gangawane vs. State of Maharashtra*” (Writ Petition No.7305 of 2014 dated 27th January, 2015), in the case “*Mohammad Munaf Mohammad Hanif Bedre & Ors. vs. State of Maharashtra & Ors.*” (Writ Petition No.6614 of 2016 decided on 19th July, 2016) and in the case “*Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee & Ors.*” (2010 (6) Mh.L.J. 401), as also the Supreme Court in the case “*Raju Ramsing Vasave vs Mahesh Deorao Bhivapurkar & Ors.*” (2008(9) SCC 54). The principle of law which can be culled out from these judgments is that in the absence of any fraud, misrepresentation, order being without jurisdiction or there is ignorance of any vital document while granting previous validation certificate, the validity certificates of the near relatives of the claimant cannot be discarded. Here it is apparent that the petitioner's father and real uncle were granted the caste validation certificate after due inquiry and the said caste validation certificate had attained finality. We also find that none of these grounds was available for the Committee to have discarded the said validity certificates.

8. In the circumstances, in the absence of the valid reasons for discarding the said validation certificates of petitioner's father and real uncle, the impugned order passed by the Committee cannot be sustained

and the same is liable to be quashed and is hereby quashed.

9. As a result, we direct the Committee to issue forthwith the caste validation certificate to the petitioner on receipt of the authenticated copy of this order.

10. Rule is made absolute accordingly. No order as to costs.

(G. S. KULKARNI, J.)

(SHANTANU KEMKAR, J.)