

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PEITITION NO. 10393 OF 2017

Vidya d/o. Dattatraya Bhosale

... Petitioner

Vs.

The State of Maharashtra and Ors.

... Respondents

.....

- Mr. Anil Golegaonkar a/w. Mr. M. Golegaonkar for the Petitioner.
- Mr. A.A. Kumbhakoni, Advocate General a/w. Mr. Akshay Patil a/w. Mr. Sandeep Babar, AGP for State.

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**CORAM : SHANTANU S. KEMKAR &
G.S. KULKARNI, JJ.**

DATE : SEPTEMBER 28, 2017.

P.C. :

. By filing this petition under Article 226 of the Constitution of India, the petitioner has challenged the order dated 01/09/2017 passed by the respondent no.2-Scheduled Tribe Caste Certificate Scrutiny Committee, Nashik (for short 'the Committee'), whereby, the petitioner's claim for validation of her caste certificate of "Thakar" Scheduled Tribe has been rejected.

2. In support of her claim before the committee, the petitioner had submitted as many as 23 documents including Caste Validation Certificate in respect of her father Dattatray Bhosale,

uncle Sanjay, cousin sister Nayan and cousin brother Babu. The Vigilance Cell conducted the enquiry in which the Vigilance Officer submitted the report in favour of the petitioner confirming pre constitution documents of petitioner's cousin grandfather Suryabhan Dnyandeo Bhosale and grandfather Vithal submitted by her. The Vigilance Officers report is filed as Exhibit "E". The geneology submitted by the petitioner before the Committee was not disputed.

3. The Committee after examining the evidence however, the Committee ignored the Vigilance Cell report as the four caste validity certificates issued in favour of the petitioner's father, uncle, cousin brother and cousin sister as also the pre constitution document of the petitioner's grandfather Vithal, of the year 01/04/1946 without assigning any cogent reason for discarding the said documents what the Committee has observed that, the caste validity granted in favour of the petitioner's uncle Sanjay has not been issued after conducting the due Vigilance enquiry and therefore it cannot be relied. However, it is not in dispute in respect of the petitioner's cousin sister and cousin brother, the Vigilance Enquiry was conducted.

4. Learned counsel for the petitioner submits that the impugned order is vitiated as it runs contrary to the law laid down by the Supreme Court in the case of “***Raju Vasave vs. Mahesh D. Bhivapurkar.***” (2008 (9) SCC 54) as also in the case of Division Bench judgement in the case of “***Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee & Ors.***” (2010 (6) Mh.L.J. 401).

5. Having considered the submissions of learned counsel for the petitioner as also the learned AGP appearing for the state, we are of the view that the impugned order passed by the Committee cannot be sustained.

6. We find that the pre constitution period documents filed by the petitioner, were duly verified by the Vigilance Cell, but without raising any doubt about those pre constitution documents and without assigning any reason as to whether, the earlier caste validation certificates of the petitioner's relatives were obtained by fraud, misrepresentation, or by an order passed without jurisdiction or any vital documents being ignored, the Committee has rejected the petitioner's claim which, in our considered view is

not in conformity with the law laid down in the case of “**Raju Vasave vs. Mahesh D. Bhivapurkar.**” (2008 (9) SCC 54) and “**Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee & Ors.**” (2010 (6) Mh.L.J. 401).

7. As a result, we allow this writ petition and set aside the impugned order. The Committee is directed to forthwith issue caste validation certificate to the petitioner of the “Thakar” Scheduled Tribe on the basis of the authenticated copy of this order.

(G.S. KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)