IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 10430 OF 2017

Vaibhav S/o Govindrao Gajalwad ...Petitioner

Versus

1.The State Of Maharashtra
2.Scrutiny Committee for Scheduled Tribes
3.Commissioner & Competent Authority
4.Dr.Shankarrao Chavan,
government Medical College, Nanded. ...Respondents

Mr.S.M. Kulkarni, for the Petitioner.

Mr. A.A. Kumbhakoni, Advocate General a/w. Mr.Akshay Shinde, Special Counsel and Mr. Sandeep Babar, AGP for the Respondents.

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

DATE : OCTOEBR 3rd, 2017

ORAL JUDGMENT : (Per Shantanu Kemkar, J.)

. Rule, returnable forthwith. By consent of the parties heard finally.

2. Challenging the order dated 2nd September, 2017 (“Exhibit E”) passed by the second respondent – Scrutiny Committee for Scheduled Tribes, Aurangabad, the petitioner has filed this petition under Article 226 of the Constitution of India.

3. Briefly stated the petitioner had applied for grant of caste certificate claiming himself to be “Koli Mahadev” Scheduled Tribe. The competent authority after necessary inquiry issued caste certificate to the petitioner of he being “Koli Mahadev” Scheduled Tribe. The said certificate was thereafter submitted for its validation before the second respondent committee.

4. In support of his claim for validation of the caste certificate, the petitioner submitted as many as thirteen documents before the second respondent committee. Out of these documents, one of the document was the validity certificate pertaining to the petitioner's cousin uncle Ashok Laxmanrao Gajalwad and a document of the year 1955 mentioning therein the case of the petitioner's grandfather as “Koli Mahadev”.

5. The second respondent committee after getting vigilance cell report, by the impugned order rejected the petitioner's caste validation claim on the ground that in the documents collected by vigilance cell officer the entry in respect of relatives of the petitioner, the mention is either of “Koli Mahadev” or “Mahadev Koli” and therefore, the petitioner's claim cannot be accepted.

6. According to the learned Counsel for the petitioner, the reasons assigned by the committee discarding the validation certificate of his cousin uncle cannot be sustained. He submits that the committee has

raised doubt about the petitioner being “Mahadev Koli” scheduled tribe on the basis of the vigilance cell's report to the effect that the documents of the petitioner nephew there is mention of “Koli Mahadev” or “Mahadev Koli” or “M.Koli”. It is the case of the petitioner that this is not the vital discrepancy in the documents so as to discard the caste validity certificate of the petitioner's cousin uncle and also to discard the other documents submitted by the petitioner in support of his claim.

7. The petitioner in support of his submissions placed reliance on various orders passed 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).***

8. From the aforesaid judgments, it is clear that in the absence of any fraud, misrepresentation or order being without jurisdiction or there is ignorance of any vital document while granting previous validity certificate, the validity certificate of the near relative of the claimant cannot

be discarded. In the present case, the petitioner's cousin uncle was granted caste validation certificate after due inquiry and the said caste validation certificate has attained finality.

9. In the circumstances, in the absence of the aforesaid grounds, it was not appropriate for the committee to have discarded the said validity certificate submitted by the petitioner.

10. Even otherwise, we find that all the documents which the petitioner has submitted as also which the Vigilance Cell has collected, there is clear mention of the fact that the relatives of the petitioner as also the petitioner belongs to 'Koli Mahadev"/"Mahadev Koli" schedued tribe. It is also not the case of the respondents that the genealogy submitted by the petitioner is not correct.

11. In the circumstances, in our considered view the impugned order passed by the Scrutiny Committee for Scheduled Tribes is unsustainable.

12. As a result, the petition is allowed. The impugned order is set aside. We direct the Scrutiny Committee to issue forthwith to the Petitioner the caste validation certificate, on receipt of an authenticated copy of this order.

(G.S. KULKARNI, J.) (SHANTANU KEMKAR, J.)