

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 9867 OF 2015

Nitinchandra Ashwinikumar Basangar ...Petitioner

Versus

State Of Maharashtra and others ...Respondents

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Mr.C.K. Bhangoji i/by Mr. R.K. Mendadkar, Advocate for the Petitioner.

Mr. S. Babar, AGP, for Respondent Nos.1 and 2.

Mr. V.M. Parkar /by Mr. M.D. Nagle for respondent no. 3.

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**CORAM : SHANTANU KEMKAR &
R. G. KETKAR, JJ.**

DATE : DECEMBER 14, 2017

P.C.

1. Heard learned counsel for the parties.
2. Challenging the order dated 29.6.2015 Exhibit "A" passed by Respondent No.2 Divisional Caste Certificate Scrutiny Committee No.1, Solapur whereby the Petitioner's caste claim of he being '*chavadi*', Scheduled Caste has been rejected, the Petitioner has filed this Petition under Article 226 of the Constitution of India.

3. The case of the petitioner is that his real brother, namely, Shashank Ashwinikumar Basanagar has been granted caste validity certificate holding his caste to be 'chalvadi' Scheduled Caste. In the circumstances, the petitioner's claim could not have been rejected by the Caste Certificate Scrutiny Committee ignoring said caste validity certificate.

4. The learned counsel for the Petitioner places reliance on a Division Bench judgment of this Court passed in the case of ***Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 & others, 2010 (6) Mh.L.J. 401***. He has also pointed out that now the State Government has amended Rule 4 of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 by inserting following :

“Rule No. 4 : - Procedure for obtaining Caste Certificate from Competent Authority.--

(d) validity certificate, if any, of the father in blood relation or real uncle or any other relative of the applicant in blood relation from paternal side granted by the Scrutiny Committee;

If such validity certificate has been submitted, competent authority will issue caste certificate without asking for other documents of proof by considering that validity certificate as an important evidence.

In Rule 5 of the principal rules, to sub-rule (6) the following proviso shall be added, namely :--

“Provided that, if validity certificate of the father in blood relation or real uncle or any other relative of the applicant in blood relation from paternal side granted by the Scrutiny Committee has been submitted by the applicant, the Competent Authority shall issue Caste Certificate without asking for any other documents or proof by considering that validity certificate as an important evidence”

5. In the circumstances, according to the learned counsel for the Petitioner, as per said Rule the petitioner's blood relation i.e. his real brother is holding caste validity certificate granted by the Scrutiny Committee and, therefore, the Petitioner is entitled for the same. The learned A.G.P. has not disputed that the State has amended said Rule notified on 24.11.2017 as aforesaid. He has also not disputed that the petitioner's real brother has been granted caste validity certificate of the said caste.

6. In the circumstances, we allow this Petition and grant reliefs to the petitioner in terms of prayer clauses (a) which read thus:

“(a) This Hon'ble Court be pleased to issue Writ of Certiorari and or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned decision of the respondent no. 2 committee dated 29-6-2015 with further direction to Respondent no. 2 to issue certificate of validity in relation to caste certificate dated 29.8.1978 issued by by Tahsildar and Executive Magistrate, North Solapur, Dist. Solapur.

7. Petition is disposed of accordingly.

(R. G. KETKAR, J.)

(SHANTANU KEMKAR, J.)