

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11272 OF 2015

Smt.Darshana Bapu Kathawale

@ Darshana Sandeep Jadhav

V/s.

State of Maharashtra & Ors.

... Petitioner

... Respondents

- Mr.Vilas N. Mali for the Petitioner.
- Mr.Vikas Mali, AGP for Respondent Nos.1 to 4 (State).
- Mr.R.M. More for Respondent No.5.

**CORAM : NARESH H. PATIL &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 12th APRIL, 2017.

P.C. :

1] By this writ petition filed under Article 226 of the Constitution of India, the Petitioner is seeking to quash and set aside the order dated 6th October, 2015 passed by Divisional Caste Scrutiny Committee, Konkan Bhavan, Navi Mumbai, thereby invalidating the Caste Certificate of the Petitioner.

2] Brief facts of the petition are to the effect that the Petitioner is the elected Member of the Gram-Panchayat Mazgaon, Taluka Khalapur, District Raigad. Respondent No.4 has filed a complaint against the Petitioner before Respondent No.2 - the

Divisional Caste Scrutiny Committee challenging the validity of the Caste Certificate of the Petitioner as “Hindu-Kunbi”. The claim of the Petitioner as belonging to Hindu-Kunbi was based on the Caste Certificate granted to him by the Sub-Divisional Officer, Ulhasnagar, Thane on 27th January, 2012. The Petitioner in order to substantiate her claim relied upon various documentary evidence in the form of her school record, the school record of her real uncle Balaram Pandurang Katavale and service record of her father.

3] According to the Petitioner in her school record her caste is recorded as Hindu-Maratha. However, in the school leaving record of her uncle, Balaram Pandurang Katavale, the caste is recorded as Hindu-Kunbi. The date of admission of her uncle in the school is 26th June, 1967. Even in the school record of cousin brother of the Petitioner namely; Ajit Balaram Katavale, his caste is mentioned as Hindu-Kunbi and the birth date is recorded as 17th January, 1991.

4] It is the grievance of the Petitioner that despite this record sufficiently validating her claim of belonging to the Caste of Hindu-Kunbi, Respondent No.2 - the Divisional Caste Scrutiny Committee has invalidated her Caste Certificate and that too without giving her sufficient opportunity to prove her claim and

hence, it is submitted that the impugned order of the Caste Scrutiny Committee needs to be quashed and set aside.

5] Per contra, learned AGP has supported the impugned order of the Divisional Caste Scrutiny Committee by pointing out from the record that as per the Vigilance Cell report, the overwriting was found in respect of the entry of the Petitioner's uncle school record as "Hindu-Kunbi". Moreover, the Caste Certificate of Petitioner's uncle Balaram Pandurang Katavale is already invalidated by the Divisional Caste Scrutiny Committee. The claim of the Petitioner was based solely on the Caste Certificate of her uncle and the Caste Certificate of her uncle being already invalidated, it is submitted that, the Divisional Caste Scrutiny Committee has rightly rejected the claim of the Petitioner as belonging to Hindu-Kunbi.

6] Respondent No.5 on whose complaint the Divisional Caste Scrutiny Committee has invalidated the claim of the Petitioner has also along with his Affidavit-in-Reply produced on record relevant documentary evidence to support the order dated 24th September, 2012 passed by the Divisional Caste Scrutiny Committee to submit that the Caste Certificate of the Petitioner's uncle Balaram Pandurang Katavale has already been invalidated.

In the said enquiry the original record of the school leaving certificate of the Petitioner's uncle was produced before the Scrutiny Committee by the then Principal Mrs. Sindhu Sambhaji Medhe and it was clearly found that there was overwriting in the relevant entry. It is submitted that then necessary enquiry was also initiated for making such overwriting in the relevant entry against the Principal Mrs. Sindhu Sambhaji Medhe and she has been held guilty for the same. Thus, it is submitted that the Petitioner's claim being based on the false and forged document, the Divisional Caste Scrutiny Committee has rightly rejected her claim and hence no interference is warranted in the said order in this writ jurisdiction.

7] In view of these submission of the learned counsels for the Petitioner and Respondent(s) and on perusal of the original record, we are of the considered view that no interference is warranted in the impugned order of the Divisional Caste Scrutiny Committee for the reasons that the Petitioner's claim as belonging to Hindu-Kunbi is based purely and solely on the Caste Certificate of her uncle Balaram Pandurang Katavale. Respondent No.5 has produced on record the order dated 24th September, 2012 passed by the Divisional Caste Scrutiny Committee whereby the Caste Certificate No. MAG/Sr.OBC-502/95 dated 31st August, 1995 of the Petitioner's uncle Balaram Pandurang Katavale was declared

invalid. The perusal of the said order reveals that in the enquiry of the Caste Certificate of Petitioner's uncle, his original school record was produced by the then Principal of school, Mrs. Sindhu Sambhaji Medhe and it was found that there was overwriting at the entry no. 524 of the said register. It was also found that this entry was made by the then Principal Mrs. Sindhu Sambhaji Medhe under political pressure. In the enquiry conducted by the Chief Executive Officer (CEO), Zilla Parishad, Thane under Rule 27 of the Maharashtra Civil Services (Pension) Rule 1982, the then Principal Mrs. Sindhu Sambhaji Medhe has accepted her guilt, she was found accordingly guilty for this overwriting and her monthly pension was cut to the tune of Rs.50/- per month. The relevant order to that effect is also produced on record by Respondent No.5 at "R-3". Thus, it is clear that the very Caste Certificate of her uncle Balaram Pandurang Katavale on which the Petitioner was placing entire reliance being already invalidated, there is absolutely no substance in the case of the Petitioner.

8] Moreover, in this enquiry also the Divisional Caste Scrutiny has called the report of Vigilance Cell and it was brought to the notice by Vigilance Cell that there was overwriting in respect of the entry of the caste as "Hindu-Kunbi" in the school register of the Petitioner's uncle. The Divisional Caste Scrutiny Committee has

considered the said fact and found that as except for this certificate there was no other material or evidence produced by the Petitioner to substantiate her claim of caste, her Caste Validity Certificate deserves to be invalidated and accordingly, order was passed. In our considered opinion, therefore, absolutely no interference is warranted in the reasoned order passed by the Divisional Caste Scrutiny Committee, which is substantiated and supported with the documentary evidence on record.

9] As regards the grievance of the Petitioner that she was not given sufficient opportunity to prove her claim, the perusal of the impugned order passed by the Divisional Caste Scrutiny Committee reveals that the Petitioner was given due notice and for initial date i.e. 7th January, 2014, her husband appeared and he was directed to produce all the documents in support of the Petitioner's claim and the hearing was adjourned to 17th January, 2014. On that day, the Petitioner's husband was present and the matter was sent to Vigilance Cell. Thereafter, on 17th July, 2015, the complainant Arun Jadhav has filed his written say to the enquiry and the report of Vigilance Cell was received and the petition was adjourned for hearing to 3rd August, 2015. However, the Petitioner preferred to remain absent on that day.

10] Thus, the record proves that the Petitioner was given sufficient opportunity to produce her documents and in pursuance thereof she had produced the documents. Hence, at this stage, she cannot contend that no opportunity was given to her before passing the order.

11] Otherwise also, we find that there is absolutely no substance in her claim, as her claim was based on the Caste Certificate of her uncle, which is already been invalidated.

12] The petition, therefore, being devoid of merits, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.] [NARESH H. PATIL, J.]