

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

WRIT PETITION NO.28 OF 2016

Kum. Ashwini Vilas Chavan
Aged 28 years, residing at,
Post Degaon, Dist. Wai,
District Satara

... Petitioner.

V/s.

- 1.State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400 032.
- 2.Scheduled Tribe Certificate
Scrutiny Committee, Pune Division,
Pune through its Member Secretary
having its office at 28, Queen's
Garden, Pune- 411 001.
- 3.Zilla Parishad, Satara through
its Chief Executive Officer,
District Satara.
- 4.Sub Divisional Officer, Wai,
Sub Division, Dist. Satara.

... Respondents.

Mr.Ramchandra Kanu Mendadkar, Advocate for the Petitioner.
Mr.N.C.Walimbe, AGP for Respondent Nos.1, 2 and 4.

**CORAM : ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : 10 APRIL 2017.

ORAL JUDGMENT (PER ANOOP V.MOHTA,J.) :

1. Rule returnable forthwith. Heard finally by consent.

2. The Petitioner's claim that she belongs to Thakar- Scheduled Tribes is rejected by judgment dated 21st October, 2015, by Respondent No.2-Caste Scrutiny (The Committee), therefore, this Petition.

3. Petitioner's father has been granted certificate of validity dated 18th May, 2005, by the Committee. This is a part of the records, the proceedings. However, the same was overlooked. On the contrary, there are observations against the Petitioner referring to various other relatives' certificates to hold that her other relatives have not been granted such caste certificates. It was also rejected for failure to support the cultural affinity test.

4. Normally, we could have gone into the reasons given by the Scrutiny Committee in detail, but in the present facts and circumstances, as the Petitioner's father's certificate of validity remained intact till this date and as there is no case of fraud and misrepresentation pointed out or made out from the record and/or documents placed on record, we see there is no reason to discard the father's certificate, which goes to the root so far as the Petitioner's caste claim being the daughter. The caste of a daughter cannot be different from the father's caste. In view of this all other adverse reasons have lost its importance.

The Caste and the importance of paternal side caste validity certificate's claim :

5. It is recorded by the Supreme Court in **Amruta Vijay More Vs. State of Maharashtra and ors.**¹ as under :-

1 IA No. 3 of 2011 in Civil appeal No.7230 of 2011

“The difference is that in the case of the appellant in the writ petition filed by him before the High Court, he has categorically indicated in paragraph 6 that his father had been recognised as a member of the Thakur Scheduled Tribe and was granted a validity certificate by the Screening Committee, Nashik. Similarly, her real brother had also been granted such a certificate by the said Screening Committee. Another certificate was issued by the Screening Committee, Nashik, dated 15th November, 2000, in favour of her paternal uncle, Shri Rajendra Bajirao. Validity certificates had also been issued in favour of three of her paternal cousins and copies of said certificates had been annexed to the writ petition. The decision of the Screening Committee in the case of the appellant appears to be a decision in appeal over the earlier decision of the Screening Committee, which had granted the earlier certificates.”

6. It is observed by the Apex Court in **Anita Atmaram Gaikwad Vs. State of Maharashtra and ors.**² as under :-

“We must note that all these cases are decided in the facts of each case. In the present case, in

² Order dated 16th April, 2013 in Civil Appeal No.3881 of 2013

as much as the appellant is having two pre-Constitution documents and also when her brother and sister have been given the Community certificate, which have been validated, we are of the view that the Caste Scrutiny Committee was in error in giving the importance to the two certificates which stated that one of her relatives was 'Marathi' and the other 'Maratha'. The High Court has fallen in error in placing reliance on these two certificates.”

7. The Apex Court in **Jaywant Dilip Pawar Vs. State of Maharashtra and ors.**³ has concluded that -

“The Scrutiny Committee has negated the claim of the appellants on the ground that the relatives of the appellants were not residents of the areas mentioned in the Presidential Order, 1956 and further they were not able to give any details of customs and traditions being observed by the said community.

In our considered opinion, that is wholly irrelevant. The appellants have only to establish that they belong to the community mentioned at Serial No. 44 of Part IX of Second Schedule of Act No. 108 of 1976.”

³ Order dated 8th March, 2017 in Civil Appeal No. 2336 of 2011

8. The law with regard to the importance of Paternal side relative's caste certificate has been reiterated by the Supreme Court and by the High Court in many judgments. This Court in **Madhuri Nitin Jadhav and ors. Vs. State of Maharashtra and ors.**⁴ has recorded that -

“The Scrutiny Committee is required to consider the relation certificates issued, on which reliance is placed by the applicant/claimant for the same caste certificate/benefits. It cannot be overlooked and/or denied merely because those were obtained prior to the Act and/or without due inquiry and/or passing the affinity test, unless a case of fraud and/or misrepresentation is made out.

There is no scope and power given unless appropriate proceedings initiated to invoke and/or revoke the certificates and/or validation orders passed in favour of the relations, based upon the then provisions available.”

9. This Court in **Rajashri Prakash Ahire Vs. State of Maharashtra**⁵ noted as under -

“We have found from a perusal of the original record specifically produced before us that the committee's order is vitiated by total non application of mind. It is vitiated by an error of

4 2014(4) Bom.C.R.753

5 Order dated 3rd March, 2017 in Writ Petition No.9481 of 2015

law apparent on the face of the record and as pointed out above. The committee's order can be safely termed as perverse for it ignores and brushes aside legal and valid evidence. The documents, which have great evidenciary value, have not been taken into consideration.”

10. This Court in **Mohan Babli Ransing Vs. State of Maharashtra and ors.**⁶ has recorded the role of State and the authorities in such paternal side relatives' caste certificates and its importance as under -

“We have also observed by referring to various judgments on similar issue in earlier decision **Sanjay Bajirao More and anr. Vs. State of Maharashtra and ors. 2015(6) Mh.L.J. 822** as follows :

The State Government, in our view, required to take steps against such Scrutiny Committee and/or officers, who are passing such orders by overlooking the judgments passed by the Supreme Court and this courts directly on the issues after taking into consideration the relatives' caste validity certificates. Appropriate circular and /or direction is required to be issued in

this regard so that it will save time and energy of every one including of Courts.” (emphasis added)

Conclusion

11. Strikingly, the legal and the constitutional rights, benefits, the concessions and the relaxation are well recognized. The genuine cases are required to be concluded so also the ungenuine cases. The caste claim cases cannot be decided stubbornly by clinging to the routine and stereo type reasons. Once the committee validate the caste certificate / claim, it binds not only the claiming person but to the future generations of the whole family. All the concerned are bound by the law of binding precedents including the committee. The facts based caste claims need to be decided keeping in mind the provisions of law and the Judgments on the connected issues. The copies of the judgments/orders are required to be placed on record of the committee by the concerned parties. The committee to pass the final order promptly so that future and further consequential action arising out of it be complied with at the earliest. The committee in no case deny the caste claim by disregarding the law and the judgments. The scope and power of the committee is very limited while deciding such issues when there is no case of fraud or misrepresentation made out from the record. The judgments so referred above have concluded that the paternal side relatives' caste validity certificate, unless quashed and set aside, must be relied upon. The State and/or the concerned authority is required to issue such circulars as observed in **Sanjay Bajirao More** (cited supra), to avoid delay and physical and mental harassment

to the concerned persons who are seeking such caste certificates. This would also avoid unnecessary litigation/conflicts with the State and the related authorities when it comes to deciding the rights flowing from the State reservation policy.

12 Therefore, the following order:-

ORDER

- (a) The Petition is allowed in terms of prayer clause (a) i.e. “Quash and set aside impugned judgment and order dated 21.10.2015 passed by Respondent No.2 committee (Exhibit “A” to the writ petition) with further direction to Respondent No.2 committee to issue Certificate of Validity in respect of caste certificate dated 7.3.2008 issued by respondent No.4 in favour of the petitioner.”
- (b) Respondent No.2-Committee is directed to issue the validity certificate within eight weeks.
- (c) Rule is made absolute accordingly. No costs.

(RAVINDRA V. GHUGE,J.)

(ANOOP V.MOHTA,J.)

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