

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3718 OF 2014

Kumar Akshay Raju Gholap

..Petitioner

Vs.

The Divisional Caste Scrutiny Committee No.1
and Others

..Respondents

Mr. Akshay Shinde a/w Mr. Akshay Kulkarni I/b Mr. Ashutosh M.
Kulkarni, for the Petitioner.

Mr. Vikas Mali, AGP, for Respondent Nos.1, 2 and 4.

Mr. Kunal Nawale I/b Mr. R. V. Govilkar, for Respondent No.3.

CORAM:-B.R.GAVAI & B. P. COLABAWALLA,JJ.

DATE :- FEBRUARY 14, 2018.

P. C.:

Rule. Rule made returnable forthwith. Heard by
consent.

2 The Petitioner has approached this Court being
aggrieved by the order passed by Respondent No.1-Committee
thereby invalidating the claim of the Petitioner of belonging to
Khatik which is recognized as a Scheduled Caste.

3 The Petition deserves to be allowed on a short ground.
The order is manifestly illegal and without application of mind.

The Committee has passed an order in total ignorance of a settled position of law. A Division Bench of this Court in the case of **Apurva d/o Vinay Nichale v/s Divisional Caste Certificate Scrutiny Committee No.1 and Others reported in 2010 (6) Mh L.J. page 401** has in unequivocal terms held that if the close blood relatives of the candidate have already been granted validity certificate, then, such a candidate cannot be denied validity certificate.

4 In the present case, the Petitioner's father has been granted validity on 28th November, 2011. The Petitioner's real sister Bhagyashri has been granted validity much prior to that on 16th February, 2006. The Petitioner's real brother Ambarish has been granted validity on 18th July, 2008. Petitioner's another sister Rupali has been granted validity on 29th May, 2010.

5 All these validity certificates were placed before the Committee. In-spite of their being four validity certificates granted to the father and real brother and sisters of the Petitioner, the Committee has observed that each case has to be decided on its own merits.

6 We are at pains to say that the impugned order not only suffers from illegality but also suffers from non-application of common sense principle. The impugned order has the effect that Petitioner's father, one brother and two sisters are belonging to Khatic, Scheduled Caste and the Petitioner does not belong to same.

7 We could have taken a very serious view of the matter and thought of taking action against the members of the Committee. However, we are tired of doing so. In-spite of repeatedly castigating the members of the Committee, they have resolved not to improve themselves and repeat with the same mistakes.

8 In the result, the Petition deserves to be allowed. The impugned order is quashed and set aside. The Petitioner is declared to be belonging to Khatik - Scheduled Caste. The caste certificate be issued to the Petitioner within a period of two weeks from today.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)