

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 4870 OF 2015

Mahesh Gangavane

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. R.K. Mendadkar for the petitioner.

Mr. Asif I. Patel, AGP For the respondent nos. 1 to 3 State.

**CORAM : SHANTANU KEMKAR &
M.S. KARNIK, JJ.**

DATE : MAY 03, 2018

P.C.:

Parties through their counsel.

2. Feeling aggrieved by the order dated 23.3.2015 passed by second respondent, Caste Scrutiny Committee rejecting the petitioner's caste claim, petitioner has filed this petition. According to petitioner he belongs to Thakar, scheduled tribe. It is also the case of the petitioner that his first cousin sister namely Yugandhara Vasant Gangavane has been granted caste validity certificate on the basis of the order passed by this court in Writ Petition No.5171 of 2015 decided on 10/11/2017.

3. In the circumstances and in view of the law laid down by the

Division Bench in the case of Apoorva Vinay Nichale Vs. Divisional Caste certificate Scrutiny Committee No. 1 and Ors. Reported in 2010 (6) Mh.L.J. 401 and law laid down by the Supreme Court in the case of Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar and ors. Reported in (2008) 9 SCC 54 as also the stand taken by the respondent State in paragraph 5 and 6, petition deserves to be allowed.

4. We have gone through the reply filed by the respondent. The relevant paragraph nos. 5 and 6 read thus :

“5. I say that I have perused the original record submitted by the petitioner and his cousin sister namely Kum. Yugandhara Vasant Gangawane. I say that the Vigilance enquiry carried out in the matter of petitioner's cousin uncle namely Shri. Bhaskar Narayan Gangawane was served to the petitioner and the same was considered by the Committee while deciding his matter. I say that the genealogy submitted by the petitioner's aforesaid cousin uncle namely Shri. Bhaskar Narayan Gangawane reveals the names of both the petitioners i.e. Mahesh Dattaram Gangawane and Petitioner's cousin namely Kum. Yugandhara Vasant Gangawane. It also reveals that Dattaram Rajaram i.e. father of present petitioner Mahesh and Vasant Rajaram i.e. the father of petitioner's cousin sister Yugandhara are real brothers. Therefore, Mahesh and Yugandhara are cousins of each other.

6. I say that I also seen the genealogy submitted by the father of petitioner's cousin sister namely Vasant Rajaram Gangawane which reveals that the Mahesh and Yugandhara are cousins of each other . I further say and submit that the Vigilance enquiry carried out in the matter of said cousin of the petitioner also reveals that both the petitioner and his cousin Yugandhara are

cousins and blood relatives of each other. I further say and submit that the said cousin of the petitioner has been issued the validity certificate as per the order of Hon'ble High Court in Yugandhara's matter in W.P.No. 5171 of 2015."

5. Having regard to the aforesaid stand taken by the State and the fact that the petitioner's first cousin from paternal side has been granted validity certificate on the basis of the order passed by this court, we are of the considered view that the question involved is squarely covered by the judgment of this court in the case of Apporva Vinay Nichale (supra) and as such the petition deserves to be allowed.

6. In the circumstances, we allow the writ petition and set aside the impugned order. As a result, respondent no. 2 Committee is directed to issue caste validity certificate to the petitioner within one month from the date of receipt of copy of this order.

7. With the aforesaid directions, Petition is allowed.

(M.S. KARNIK, J.)

(SHANTANU KEMKAR, J.)

