

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5898 of 2016

Vishal Nivrutti ShindePetitioner
versus
State of Maharashtra and ors.Respondents

Mr. R. K. Mendadkar along with Mr. Chintamani K. Bhangoji, advocate for the petitioner.
Mr. P. G. Sawant, AGP for the State.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 23rd FEBRUARY, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. The petitioner, by this petition under Article 226 of the Constitution of India, is challenging the order dated 16th May, 2016, passed by the respondent No.2-Divisional Caste Certificate Scrutiny Committee No.3, Pune Division, Pune, thereby invalidating the petitioner's caste claim that he belongs to Kunbi (OBC) caste. The petitioner obtained the caste certificate from the respondent No.3 on 4th July, 2015 that he belonged to Kunbi (OBC) caste and on that basis, contested the elections to Grampanchayat Padali, Taluka – Khed, District – Pune. The petitioner was elected and, therefore, this certificate was sent by the Tahsildar to the Caste Scrutiny committee for scrutiny

thereof. As stated above, the petitioner's caste claim was rejected and, therefore, the petitioner is before this Court.

3. The petitioner has relied upon as many as 7 documents. The petitioner mainly relied upon birth and death extract of Babu Nana Shinde. It was the case of the petitioner that Babu Nana Shinde is his paternal grand uncle. He was born on 1st December, 1920 and died on 22nd August, 1921. It is the specific case of the petitioner that in the caste column, the caste of his grand uncle is shown as "Ku", which according to the petitioner is Kunbi. Though this extract is pertaining to the pre-constitutional period, the Caste Scrutiny Committee refused to place any reliance on this extract inasmuch as "Ku" does not indicate any caste.

4. Mr. Mendadkar, learned counsel for the petitioner, invited our attention to Rules 12 and 3 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 and the report of the Vigilance Cell and submitted that the Vigilance Cell has not conducted enquiry in terms of Rule 13.

5. The vigilance cell report is annexed at page 26. Perusal of the same, makes it clear that the Vigilance Committee has only verified

the genuineness of the documents relied upon by the petitioner. However, Vigilance Committee has not conducted any enquiry as stipulated in Rule 13 of the aforesaid Rules.

6. In the light of the above, the impugned order cannot be sustained and the same is set-aside. The matter is remanded to the respondent No.2-Caste Scrutiny Committee for fresh decision regarding the caste claim of the petitioner. The respondent No.2 shall call for fresh report from the Vigilance Cell in accordance with the provisions of the Act and the said Rules and, thereafter, pass an appropriate order in accordance with law after hearing all concerned. The respondent No.2 shall complete the entire exercise as expeditiously as possible and preferably with a period of six months from the date of receipt of this order. The writ petition stands disposed of.

7. The ad-interim order granted by this Court on 25th May, 2016, shall remain in operation till fresh decision is taken by the respondent No.2-Caste Scrutiny Committee in respect of the petitioner's caste claim.

[SMT.ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]