

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12135 OF 2017

Virendra Nagesh Kore

..Petitioner

Versus

State of Maharashtra and others

..Respondents

Mr. Samir Kumbhakoni, Advocate for the Petitioner.

Ms. Kavita Solunke, AGP for Respondent Nos.1 to 3.

CORAM : B. R. GAVAI &

SMT. BHARATI H. DANGRE, JJ.

DATE : 9th APRIL, 2018

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court being aggrieved by the rejection of the claim of the Petitioner of belonging to “Kumbhar”, which is notified as Other Backward Class (OBC). A perusal of the material placed on record would reveal that basically claim of the Petitioner of belonging to Kumbhar (OBC) is rejected on the ground that the Petitioner's ancestors originally belong to Nipani, which is in Belgavi district.

3] The Apex Court in the case of Sudhakar Vithal Kumbhare. Vs. State of Maharashtra¹ had occasion to consider a similar issue. It has been held by Their Lordships that if a person prior to re-organization of

1 (2004) 9 SCC 481 : 2004(5) ALL MR 152.

the State resides in adjoining area, which prior to re-organization was in the same State, but subsequently after re-organization has become part of another State and when such a caste is recognized as a reserved category in both the States, then claim of a candidate cannot be denied only on the ground that he does not originally belong to the State where is stays.

4] Undisputedly, prior to re-organization, the Petitioner's forefathers were residing in Nipani, Belgavi district, which was part of the Bombay State prior to re-organization. At the relevant time, Solapur, where the Petitioner was residing, was also a part of Bombay State. Upon re-organization, Solapur is part of State of Maharashtra, whereas the Nipani is part of State of Karnataka.

5] A judicial note can also be taken of fact that the residents of part of Belgavi district including Nipani are agitating long for inclusion in the State of Maharashtra. We are therefore of the considered view that the present case is covered by the judgment of the Apex Court in the case of *Sudhakar Vithal Kumbhare (supra)*. It is pertinent to note that no other ground is given for rejecting claim of the Petitioner. Rule is therefore made absolute in terms of prayer clause (a).

[SMT. BHARATI H. DANGRE, J.]

[B. R. GAVAI, J.]