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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9139 OF 2014

Shyamkumar Bhagwanrao Balwatkar ...Petitioner
vs.
State of Maharashtra & Ors. ...Respondents

Mr.V.K.Bodhare I/b Mr.Ashok M. Joshi for the
Petitioner and applicant
Mr.Y.S.Khochare, AGP for the respondents

CORAM : A.S.OKA, &
 SANDEEP K. SHINDE, JJ.
DATE : DECEMBER 4, 2018

P.C.:

1 Heard the learned counsel for the petitioner. The petitioner was granted a caste certificate recording that he belongs to the caste Mahadev Koli which is a scheduled tribe. The petitioner was granted employment on the reserved post in the Central Excise Department of the Government of India. On 21st October 2013, the petitioner forwarded to his employer an affidavit in terms of the Government Resolution dated 15th June 1995. The petitioner forwarded an affidavit affirmed by him on 18th October 2013 before the Special Executive Magistrate, Pune. In the said affidavit, he categorically stated that he was withdrawing his claim that he belongs to caste Mahadev Koli. He stated that he would submit his Caste Certificate to Scheduled Tribe Caste Scrutiny Committee with a

request to cancel the same. He stated that he will submit a fresh Caste Certificate in terms of clause 4 of the GR dated 15th June 1995 that he belongs to Special Backward Class. In paragraph 9, he stated that he is withdrawing his caste claim that he belongs to Scheduled Tribe and he is making a request for cancellation of his Caste Certificate to the Scrutiny Committee.

2 By order dated 29th May 2014, the Scheduled Tribes Committee invalidated the Caste Certificate of the petitioner that he belongs to Caste Mahadev Koli on the basis of the aforesaid affidavit. The challenge in this petition under Article 226 of the Constitution of India is to the said order. The challenge is also to the charge sheet issued to the petitioner on the basis of the impugned order of the Caste Scrutiny Committee. It appears from the averments made in Civil Application No.2070 of 2015 that the applicant was put under suspension and in fact Enquiry Officer after holding an enquiry has submitted a report.

3 The submission of the learned counsel for the petitioner is that firstly he acted in terms of the Government Resolution dated 15th June 1995. As required by the Resolution, he agreed to give up his Caste claim. He submitted that the petitioner is in the employment of the Central Government and therefore, the State Government's resolution will have no application. He also submits that it is the

obligation of the Caste Scrutiny Committee to decide the caste claim of the petitioner and the affidavit filed by the petitioner only for the purpose of taking benefit of the GR dated 15th June 1995 cannot defeat the caste status of the petitioner.

4 We have considered the submissions. The petitioner on his own submitted an affidavit affirmed by him before the Special Executive Magistrate, Pune. In the said affidavit, the petitioner has categorically stated that after carefully studying the Circular dated 18th May 2013, he is withdrawing his caste claim that he belongs to a scheduled tribe and he is making a prayer to the Caste Scrutiny Committee to cancel and invalidate his caste claim. In paragraph 3 of the affidavit he has stated that he was withdrawing his claim that he belongs to scheduled tribe and in fact, he will produce a certificate that he belongs to Special Backward Class.

5 By this affidavit, the petitioner has given up his Caste claim on the basis of the Caste Certificate issued to him certifying that he belongs to Mahadev Koli, a scheduled Tribe. It is irrelevant for what purpose such an affidavit was filed by the petitioner. It is not his case that the act of filing an affidavit is not voluntary. Therefore, there was every justification for the Caste Scrutiny Committee to pass the impugned order and invalidate the Caste claim of the petitioner.

In any event, the petitioner has invoked discretionary and equitable jurisdiction under Article 226 of the Constitution of India. Therefore, considering the conduct of the petitioner of voluntarily giving up his caste claim, this is not a fit case where he should be allowed to invoke writ jurisdiction.

6 We, accordingly, dismiss the petition. Civil Application does not survive and the same is disposed of.

(SANDEEP K.SHINDE,J.)

(A.S.OKA,J.)