IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELALTE JURISDICTION

WRIT PETITION NO.7488 OF 2018

Kranti Yadav Pallewad ...Petitioner
vs.
State of Maharashtra and Others ...Respondents

Mr. Sagar Phatale i/by Mr. P.V. Jadhavar for the Petitioner.
Mr. A.A. Kumbhakoni, Advocate General a/w. Mr. A.B. Vagyani, G.P., and Mr. Akshay Shinde, AGP for Respondents-State.

CORAM : SHANTANU KEMKAR &
N. W. SAMBRE, JJ.
DATE : JULY 23, 2018

P.C.:

. Parties through their counsel.

2. With the consent of the parties, heard finally and disposed of.

3. Through this Petition filed under Article 226 of the Constitution of India, the Petitioner has assailed the **order dated 30th June, 2018** passed by the **Scheduled Tribe Certificate Scrutiny Committee, Aurangabad (Respondent No. 2)** in short "the Committee" whereby the Petitioner's claim for caste validation has been rejected.

3. The grievance of the Petitioner is, though she had submitted Caste Validity Certificate granted by the Committee in

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favour of **her father Yadav, and real uncle Mahadev, cousin brother Sachin and real aunt Surekha** was relied upon, the Committee has discarded the same on the ground that the same would not be conclusive proof and would not absolve the Petitioner from discharging the burden of production of the relevant evidence. The Committee also took a view that these validity certificates have been granted to these persons without taking into account the interpolations/adverse entries in the documents, on which reliance was placed at the time of issuance of those validity certificate by its holders. It is stated by the Respondents-State that appropriate show cause notice has already been issued to these caste validity certificate holders.

4. According to the learned counsel appearing for Petitioner, the decision of the Committee runs contrary to the Division Bench judgment of this Court in the case of **Apoorva Vinay Nichale v/s Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in 2010(6) Mh.L.J. 401** which was based upon the Supreme Court judgment passed in the case of **Raju Ramsing Vasave v/s Mahesh Deorao Bhivapurkar and others, reported in (2008) 9 SCC 54**. So also the in the case of "**Anand vs. Committee for Scrutiny and Verification of Tribe**

Claims and Others, (2012) 1 Supreme Court Cases, 113".

5. The Division Bench in the case of **Apoorva Vinay Nichale** (supra) in Paragraph Nos. 7 and 9 observed thus :

> *"7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.*
>
> *9. In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the school leaving certificate of Petitioner's father and noticing that the original caste written on it was 'Thakur' and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without complying with the procedure prescribed by section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been one illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on*

> *the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent cast claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the Petitioner."*

6. The learned Government Pleader submits that since some interpolation is noticed in the school record of Petitioner's father, uncle, cousin brother and real aunt, the Committee has issued a show cause notice to the his father, uncle, cousin brother and real aunt. We find that the Committee has not recorded specific findings as regard possibility of some interpolation. Be that as it may, we have noticed that the **Petitioner's father,uncle, cousin brother Sachin and real aunt** have already been granted caste validity certificate. Thus in our considered view, the reason assigned by the Committee for rejection of the Petitioner's claim

cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of **Apoorva Vinay Nichale** (supra).

7. In the circumstances, in the light of the judgment in the case of law laid down in the cases of **Apoorva Nichale, Anand vs. Committee** and **Raju Ramsing Vasave** (supra), the Petitioner is entitled to be granted caste validity certificate forthwith. However, the issuance of the certificate shall be subject to the outcome of the show cause notice which has been issued against the **father, real uncle, cousin brother and real aunt of the Petitioner** by the Committee as the caste validity certificate issued to them is found to be based on interpolation/adverse entries.

8. In view of above, the Committee is directed to issue Tribe validity certificate to the Petitioner forthwith. As the Committee has already initiated proceeding for cancellation of validity issue to the blood relations of the Petitioner, in response to the Courts query, it is assured by the Committee that the Committee will conclude those proceeding within a period of three months from the date of receipt of copy of this order. If the proceeding for cancellation of caste validity holders are answered against such certificate holders, it shall be open for the Respondent

Committee to issue show cause notice to the Petitioner as to why the validity certificate granted to petitioner should not be cancelled and it will be open for the Committee to take those proceeding to its logical end. Needless to say that the certificate issued to the Petitioner is subject to the outcome of the proceeding for cancellation of validity issue in favour of his blood relations.

9. With the aforesaid observation, the Petition is allowed to the extent indicated above.

(N.W. SAMBRE, J.) **(SHANTANU KEMKAR, J.)**