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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7562 OF 2018

Mansi d/o. Ramesh Gajbe ..Petitioner.
V/s.
The Vice-Chairman / Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee. ..Respondent.

Ms.P.D.Rane for the petitioner.

Mr.A.A.Kumbhakoni, Advocate General with Mr.M.M.Pabale, AGP for the respondent-State.

Mr.Pravin Kamlakar Thete, Law Officer, CVC, Nagpur additional charge Amravati.

Srikrishna Ananth Sharma
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Date: 2018.07.27 13:41:50 +0530

Mr.Vinod Hariran Pandit, Law Oficer, CVC Gadichiroli.

CORAM: SHANTANU KEMKAR
NITIN W.SAMBRE, JJ.

DATE : JULY 26, 2018

P.C.:-

With consent of parties, heard finally and disposed of.

2. Through this Petition filed under Article 226 of the Constitution of India, the Petitioner has assailed the **order dated July 3, 2018** passed by the **Scheduled Tribe Caste Certificate Verification Committee, Nagpur** in short "the Committee"

whereby the Petitioner's claim for Tribe validation has been rejected.

3. The grievance of the Petitioner is, though Caste Validity Certificate granted by the Committee in favour of **his cousin brother Ashish s/o. Arunrao and cousin sister Archana** 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 and to show affinity. The Committee also took a view that validity certificate has been granted to this person without taking into account the effect of entries in the documents, on which reliance was placed at the time of issuance of validity certificate by its holder when affinity was not proved.

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. We find that the Committee has already granted caste validity certificates to **his cousin brother Ashish s/o. Arunrao and cousin sister Archana.** 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). 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.

7. In view of above, the Committee is directed to issue Tribe validity certificate to the Petitioner forthwith.

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

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