

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13199 OF 2017

Navnath Dnyanoba Masai Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 13200 OF 2017

Smt. Ranjana Dnyanoba Masal Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 9488 OF 2018

WITH

WRIT PETITION NO. 9480 OF 2018

Shri Ganpat Shankar Dagade Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. P.K. Dhakephalkar I/by Mr. Jagdish Aradwad (Reddy) for the petitioners in W.P. No. 13199 of 2017 and W.P. No. 13200 of 2017.

Mr.Y.S. Jahagirdar, Sr. Advocate a/w Mr. S.S. Kanetkar for the petitioners in WP No. 9488 of 2018 and W.P. No. 9480 of 2018.

Mr. V.S. Gokhale, "B" Panel counsel for the respondent State.

**CORAM : SHANTANU KEMKAR &
SARANG V. KOTWAL, JJ.
DATE : SEPTEMBER 05, 2018**

P.C.:

Parties through their counsel.

2. Affidavit in reply has been filed by the then Sub Divisional Officer, Pune Ms.Katare. The same is taken on record. Affidavit of respondent nos. 3 and 4 in reply to the petition is also taken on record.

3. Feeling aggrieved by the part of the order dated 13/11/2017 (Exhibit "F") passed by the respondent no.2 District Caste Scrutiny Committee, Pune whereby the Committee has recorded a finding that the caste certificate submitted by the petitioner before it for its validation is not issued by the competent authority. The petitioners of Writ Petition No. 13199 of 2017 and Writ Petition No. 13200 of 2017 have filed these two petitions. The Writ Petition No. 9488 of 2018 and Writ Petition No. 9480 of 2018 are filed by the complainants being aggrieved by the part of the order by which the Committee has held that the petitioners are belonging to 'kunbi' caste.

4. According to the petitioners of Writ Petition No.13199 of 2017

and Writ Petition No. 13200 of 2017, the finding regarding non issuance of the caste certificate by the competent authority is based on no cogent material and as such the same deserves to be set aside.

4. During the pendency of the petitions, affidavits have been filed by the parties including the respondent State and the then Sub Divisional Officer, Ms. Katare. From the affidavits filed by the parties, it is not clearly borne out as to whether the findings recorded by the Committee holding that the certificate has not been issued by the then competent authority is based on proper appreciation of evidence.

6. The affidavits which are now filed before us requires to be considered by the Committee to reach to a correct conclusion. The grievance of the Writ Petitioners of Writ Petition No. 9488 of 2018 and Writ Petition No. 9480 of 2018 is that the finding so far as it relates to the fact that the petitioner belongs to '*kunbi*' caste is also not based on the cogent evidence and has been based on material which cannot be relied upon.

7. Keeping in view the controversy involved in the matters and the allegations and counter allegations, we are of the view that in the interest of justice, the matters require to be remanded back to

the Caste Scrutiny Committee for taking a fresh decision in the matters in regard to both the issues.

8. Parties are at liberty to raise all the grounds before the said Committee. They are directed to appear before the caste scrutiny committee on 26/09/2018 at 11.00 a.m. The impugned order passed by the Caste Scrutiny Committee is set aside.

9. As a consequence of the remanding of the matters, the order passed by the Collector on 15/1/2018 stands set aside. However, we make it clear that setting aside the order of the Collector shall not be construed to give the petitioners any further benefit and that the order passed by the Supreme Court in the case of Shankar Raghunath Devare (Patil) Vs. State of Maharashtra in Special Leave Petition No. 29874 of 2016 shall apply to the petitioners herein as well.

10. Writ Petitions are disposed of.

(SARANG V. KOTWAL, J.)

(SHANTANU KEMKAR, J.)