

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1100 OF 2017**

Dhairyashil Shahaji Gaikwad ...Petitioner

V/s.

State of Maharashtra and Ors.Respondents

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Mr. Ramchandra K. Mendadkar and Ms. Tejsvini Bhamane,
Advocate for the petitioner.

Mrs. R.A. Salunkhe, AGP for respondents no.1 to 3.

Coram : A.S. Oka, &

Sandeep K. Shinde, JJ.

Wednesday, 12th December, 2018.

P.C. :

1. Heard learned Counsel for the petitioner.
2. Rule. The learned AGP waives service for the respondents. The record of the Scrutiny Committee is available with the learned AGP. Forthwith taken up for final disposal.
3. By the impugned order dated 2nd December 2015, the second respondent-Scrutiny Committee has invalidated the caste claim of the petitioner. The petitioner claims that

12.12.2018

he belongs to “Thakar” caste which is a scheduled Tribe. The petitioner is relying upon documents of his near relatives showing entry of Caste Thakar. Paragraph-3 of the impugned order incorporates the details of the said documents. However, from the impugned order, we find that, firstly there is no adjudication made on the relationship claimed by the petitioner with the persons whose names appear in paragraph-3. Secondly, no enquiry is made about the genuineness or otherwise of the documents. Perusal of the report of the Vigilance Cell shows that, there is no enquiry made as regards the petitioner’s relationship with the persons mentioned in paragraph-3.

4. Hence, there is no option but to set aside the impugned order and to remand the matter for re-consideration of the second respondent. A fresh Vigilance Cell enquiry is required to be ordered by the second respondents as the Vigilance report submitted in September, 2013 shows that the Vigilance Cell has not done its duty. Accordingly, we pass the following order :

O R D E R

(i) The impugned order dated 2nd December,

2015 (Exhibit-A to the petition) is hereby set aside;

(ii) The matter of verification of the tribe claim of the petitioner, is remanded to the second respondent;

(iii) The petitioner will appear before the second respondent on 5th January, 2019 at 11.00 a.m. and will produce an authenticated copy of this order;

(iv) The second respondent shall order fresh enquiry through the Vigilance Cell in the light of the observations made above;

(v) An endeavour shall be made to decide the claim of the petitioner as expeditiously as possible and preferably within six months from the date fixed for the appearance of the petitioner;

(vi) All contentions as regards the caste claim of the petitioner are kept open;

(vii) Rule is made partly absolute in the above terms.