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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO.898 OF 2018

Rajendra Shriram Nagarale

...Petitioner

Versus

State of Maharashtra and Ors.

...Respondents

Mr.Y.S.Jahagirdar, Senior Counsel a/w Mr.Deepak Chitnis i/b
Mr.C.K.Bhangoji, for the Petitioner.

Mr.Himanshu Takke, A.G.P. a/w Ms.Deepali Patankar, for the
Respondent Nos.1 and 2.

Ms.Rupali Adhate, for the Respondent No. 3 – M.C.G.M.

Mr.A.V.Anturkar, Senior Counsel a/w Mr.V.D.Patil i/b Mr.A.T.Gade, for the
Respondent No.5.

***CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.***

DATE : 4th DECEMBER, 2018

P.C. :

1. Heard Mr. Jahagirdar, learned senior counsel for the Petitioner
and Mr.Anturkar, learned senior counsel for the Respondent No.5.

2. By this Petition, filed under Section 226 of the Constitution of
India, the Petitioner is challenging the order dated 16th August, 2017,

passed by the Respondent No.2 – District Caste Certificate Scrutiny Committee, validating the claim of the Respondent No.5, that he belongs to Chambhar Scheduled Caste.

3. The Petitioner and the Respondent No.5 contested the Elections of Respondent No.3 – Municipal Corporation of Greater Mumbai, from the Scheduled Caste Reserved Category. The Respondent No.5 contested this election on the basis of the caste certificate, which was later on sent for scrutiny to the Respondent No.2 – Committee, and as stated above, the Respondent No.2 after scrutiny, accepted the claim of the Respondent No.5 and validated the same.

4. In order to prove that the Respondent No.5 belongs to the Chambhar Scheduled Caste, he relied upon 9 documents. Out of these 9 documents, the Respondent No.2 – Committee itself relied upon 3 documents viz. the documents at serial nos.3, 6 and 7 respectively. The document at serial no.3 is a birth certificate of the Respondent No.5's sister – Devka Govind Chambhar. The document at serial no.6 is a school leaving certificate of the Respondent No.5's brother – Jayprakash Govind Shetye

and the document at serial no.7 is the school leaving certificate of the Respondent No.5's sister – Sumati Govind Shetye. We have perused these documents, which are annexed to the Petition, at page nos.53, 55 and 60 respectively.

5. So far as the document in respect of the Respondent No.5's sister –Devka is concerned, the objection of Mr.Jahagirdar, learned senior counsel for the Petitioner is that the column caste is blank and therefore on the basis of the surname Chambhar, the Respondent No.5 cannot claim that his sister – Devka belongs to Chambhar Scheduled Caste. The Respondent No.2-Committee, however, has come to the conclusion that the surname Chambhar itself is an indicative of the Devka's caste and therefore relied upon the same. We don't find anything objectionable.

6. As far as the document in respect of the Respondent No.5's brother Jayprakash Govind Shetye is concerned, we have gone through the same. Mr.Jahagirdar, learned senior counsel for the Petitioner disputes this document, on the ground that in the genealogy, the name of the Respondent No.5's brother is shown as Prakash. We, do not agree with the

submission of Mr.Jahagirdar, learned senior counsel for the Petitioner, inasmuch as, such, at a later stage, an explanation is given by the Respondent No.5 that Jayprakash Govind Shetye is commonly known as Prakash in the house. These documents do show that the said Jayprakash Govind Shetye was admitted in the School on 28th July, 1962 and left the school on 30th November, 1962. In the caste column, the caste of Jayprakash Govind Shetye is shown as Chambhar.

7. The document at serial no.7 is the school leaving certificate of the Respondent No.5's sister – Sumati Govind Shetye. This document shows that she was admitted in the school on 10th November, 1973 and that she left the school on 23rd April, 1979. In the caste column, her caste is shown as Chambhar.

8. Mr.Jahagirdar, learned senior counsel for the Petitioner, submits that by virtue of provisions of Rule 13 of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, it was

obligatory on the part of the Vigilance Committee, to personally visit the offices and verify the entries. This submission cannot be accepted, inasmuch as, the Vigilance Committee, has filed its Report on 11th August, 2017. A copy of which is at Exhibit – 'E', page 69 of the Petition. The report shows that the Police Inspector, Vigilance Cell, has visited the concerned school of the Respondent No.5's brother and sister and made an enquiry.

9. Mr.Jahagirdar, learned senior counsel for the Petitioner, also submitted that there is a discrepancy in the genealogy given by the Respondent No.5 and his brother. The genealogy given by the Respondent No.5 is on page 58 of the Petition and the genealogy given by the Respondent No.5's brother is at page 82 of the Petition. There is minor discrepancy in both the genealogies. In the genealogy given by the Respondent No.5, the name of his grandfather is Laxman@ Balu Arjuna Shetye and in the genealogy given by the Respondent No.5's brother, Laxman is shown to be the Respondent No.5 grandfather. However, it is also shown that Balu is the brother of Laxman. We have considered both the genealogies. So far as the descendant of Respondent No.5's father

Govind is concerned, there is no discrepancy. Both the genealogies show that Govind had 9 issues, which are same.

10. Mr.Jahagirdar, learned senior counsel for the Petitioner, submitted that a show-cause-notice was given by the Respondent No.2 – Committee, to the Respondent No.5, asking explanation for some of the discrepancies. He submitted that in the impugned order, there is no reference that the Respondent No.5 has given a reply to the said show-cause-notice. Mr.Anturkar, learned senior counsel for the Respondent No.5 however, invited our attention to the reply, which is annexed at page 93 of the Petition. Having gone through the same, we find that as a matter of fact a reply was given by the Respondent No.5 to the show-cause-notice. Merely because reference of the reply is not there in the impugned order, the same would not be vitiated. Needless to state that having gone through the impugned order, we find that the reply of the Respondent No.5 has been given due consideration and that thereafter the impugned order is passed.

11. We, also, find that the Respondent No.2 – Committee had considered the documents relied upon by the Respondent No.5 and the

Report of the Vigilance Committee and has thereafter come to the conclusion that the Respondent No.5 had proved that he is a Chambhar.

12. Taking the totality of the facts and circumstances of this case, we do not find any reason to interfere in the impugned order.

13. The Petition being devoid of any substance, is accordingly dismissed.

REVATI MOHITE DERE, J.

RANJIT MORE, J.