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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3425 OF 2015**

Shri. Sagar Bhupal Malage	]	
Age-32 yrs, Occu – Service,	]	
R/o. Kabnur, Tal Hatkanagale.	]	
Dist – Kolhapur	]	
(Presently working at Sangola,	]	
Dist-Solapur Magistrate Court	]	
as Asst. Public Prosecutor	]	 Petitioner.

V/s

1] The Member/Chairman,	]	
Divisional Caste Scrutiny	]	
Committee No.2, Kolhapur	]	
having his office at, Dr. B.R.	]	
Ambedkar Bhavan, 2 nd Floor,	]	
Vichare Mal, Kolhapur	]	
	]	
2] The Secretary,	]	
Home Dept. Mantralaya,	]	
Mumbai 400032	]	
	]	
3] The Director of Prosecution	]	
Having his office at,	]	
Near Mantralaya, Mumbai-32	]	 Respondents.

Mr. P. S. Dani, Senior Advocate I/by Mr. A. S. Patil, Advocate for the Petitioner.

Mrs. R. A. Salunkhe, AGP for Respondent - State.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 31st JANUARY, 2019

ORAL JUDGMENT: (Per B.R. Gavai, J.)

1] Rule. Rule is made returnable forthwith. Heard by consent of parties.

2] Petitioner has approached this Court being aggrieved by the Order dated 11/9/2014, thereby rejecting the claim of the Petitioner of belonging to the Mahar Scheduled Caste. Petitioner's claim was rejected on the short ground that, since the Petitioner originally belonged to the State of Karnataka, he is not entitled to be treated as belonging to Scheduled Caste in the State of Maharashtra.

3] The issue is no more *res intergra*. The Hon'ble Apex Court in the case of *Sudhakar Vithal Kumbhare Vs. State of Maharashtra*¹, has

¹ (2004) 9 SCC 481 : 2004(5) ALL MR 152

held that if a person migrates and both, the place from where he has migrated and the place where he is migrated, form part of the same State prior to re-organization but after re-organization the said areas belong to different States, then merely on the ground of migration, candidate cannot be denied the claim of social status.

4] Undisputedly, prior to re-organization, Taluka Chikkodi in Belgaum District to which the Petitioner originally belongs and Kolhapur which is the place where the Petitioner is migrated, both were the parts of erstwhile State of Bombay. After re-organization of the States, Chikkodi in Belgaum District became a part of the State of Karnataka whereas Kolhapur District became the State of Maharashtra. Undisputedly, the Caste “Mahar” is recognized as Scheduled Caste in the State of Karnataka as well as in the State of Maharashtra. In that view of the matter, rejection of the claim of the Petitioner on the said ground is not tenable. The matter needs to be reconsidered by the Scrutiny Committee on its own merits

4] The impugned order is therefore quashed and set aside. The matter is remitted to the Respondent – Scrutiny Committee for

considering the claim of the Petitioner in the light of the aforesaid observations.

5] Rule is made absolute accordingly with no order as to costs.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)