

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5242 OF 2017

Vithabai Krishnappa Kamble

...Petitioner

vs.

The State of Maharashtra and Ors.

...Respondents

Mr. R. K. Mendadkar for the Petitioner.

Mr. A. I. I. Patel, AGP for the Respondent Nos.1, 2 and 9.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.
DATE : 19/09/2019.**

PC.:

. Petitioner elected as scheduled caste candidate has already completed her tenure. However, the question of her social status needs to be decided.

2. After hearing learned counsel for the petitioner and learned AGP, we find that the petitioner approached committee with a specific case that she got married with Sharnappa S. Waghmare in 1955 and Sharnappa was and is resident of Balgi, Tal. South Solapur. Since date of marriage she is resident of Balgi which after State reorganization has remained part of State of Maharashtra.

3. The order of Scrutiny Committee shows that the petitioner is born and brought up at village Havinal, Taluka Indi, District Bijapur which is presently in the State of Karnataka.

4. The contention of the petitioner is Bijapur on 10/8/1950 was part and parcel of State of Bombay and as such it cannot be said that on the

date of issuance of constitutional Scheduled Caste Order 1950, the petitioner was not resident of that area or then the State of Bombay.

5. By placing reliance upon judgment of Hon'ble Apex Court in the case of ***Sudhakar Vitthal Kumbhare vs. State of Maharashtra and Others reported in 2004(9) SCC 481*** and the Division Bench Judgment dated 29/8/2013 delivered at Nagpur in ***Writ Petition No.834 of 2012*** submission is the date of State reorganization assumes importance in the present matter. The date of 10/8/1950 does not remain relevant thereafter. Learned counsel states that after State reorganization in 1961 the place Balgi has remained part of State of Maharashtra only.

6. We have perused the impugned order of Scrutiny Committee. Scrutiny Committee has not made any specific observation on the date of marriage. Similarly, the above mentioned precedents are also lost sight of.

7. Taking over all view of the matter, we are inclined to place back the matter before Scrutiny Committee for fresh consideration.

8. For this purpose we quash and set aside the order dated 2/3/2017 at Exhibit A and direct the petitioners to appear before respondent No.2-Committee on 21/10/2019. The Committee shall thereafter give petitioner necessary opportunity to substantiate the facts noted supra and pass fresh order on her caste claim at the earliest preferably within one year. With these directions we partly allow the petition and dispose it of. No costs.

(SANDEEP K. SHINDE, J.)

(B. P. DHARMADHIKARI, J.)