

Sequeira

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

WRIT PETITION NO. 6355 OF 2015

Rohit Jaiprakash Jaiswal

... Petitioner.

V/s.

Divisional Caste Scrutiny Committee

No.1, Solapur & Anr.

... Respondents.

Mr. A.B. Tajane, for the Petitioner.

Mr. M.M. Pabale, Addl. Government Pleader for the State –
Respondent No.2.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 27 JUNE 2019.

P.C. :-

1. By this Petition, the Petitioner challenges the order passed by the Divisional Caste Scrutiny Committee dated 20 December 2014. The Scrutiny Committee has invalidated the caste certificate issued to the Petitioner as belonging to Hindu Kalar community, notified as Other Backward Class in the State of Maharashtra.

2. The Petitioner's caste certificate was referred for verification by the Respondent – Educational Institution where the

Petitioner has taken admission for Diploma in Information Technology.

3. The Scrutiny Committee directed the Vigilance Cell to carry out a field enquiry. The documents produced by the Petitioner and the enquiry Report of the Vigilance Cell were placed before the Scrutiny Committee. The Petitioner was given an opportunity to comment on the Report. The Petitioner was given a personal hearing by the Scrutiny Committee.

4. The Petitioner has claimed to belong to Kalar community. The burden of establishing that he belongs to this Kalar community is on the Petitioner - ¹. The documents produced before the Committee were Petitioner's caste certificate, his School Leaving Certificate, his father's School Leaving Certificate, paternal aunt's School Leaving Certificate. The School Leaving Certificate of the Petitioner's father of 13 June 1961 shows the entry as 'Kalwar'. The School Leaving Certificate of Petitioner's aunt of 7 June 1966 shows the entry 'Hindu Rajput Kalwar'. The relevant date for evaluating the evidence in respect of Other Backward class is 13 October 1967- ²

1 - (Section 8 of the 'Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000').

2 - (Rule 2(e) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003.)

5. The documents relied upon by the Petitioner himself i.e the School Leaving Certificate of Petitioner's father and paternal aunt, showed the entries as Hindu Rajput Kalwar and Hindu Kalwar. In the record the surname of the Petitioner's father and aunt is Pardesi. There is also an entry of surname Rajput. 'Hindu Kalwar' and 'Hindu Rajput Kalwar' admittedly are not synonyms of 'Kalar'. No judicial pronouncement is shown to us that these two communities are synonyms.

6. The Petitioner has failed to explain the entries in respect of his father and aunt, which are the oldest documents the Petitioner has. The Scrutiny Committee has rightly observed that in such a case of unexplained entries of other communities in the old records of Petitioner's close family, mere interviews with local community cannot accrue to the benefit of the Petitioner. We do not find any perversity in the adjudication.

7. The learned counsel for the Petitioner placed reliance on the decision of this Court in the case of *Shri Imram A.Ajij Shaikh Vs State of Maharashtra & Ors.*³. In this case the petitioner therein had sought to justify his claim as belonging to 'Muslim Julaha'. The caste column of the record showed the entry as 'Musalman', and the Court has observed that in Muslim community there are few cases in which the caste is recorded regularly. It is in

3 - Writ Petition No.8044 of 2013 dated 17 February 2014.

this context that the Division Bench found that the report of the Vigilance Cell which was favourable to the Petitioner could not have been overlooked. There were no entries of other castes. Such is not the present case, where, as stated above there is a contra documentary evidence.

8. There is no merit in this Petition. Petition is rejected.

N.M. JAMDAR, J.

CHIEF JUSTICE