

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4462 OF 2017

WITH

CIVIL APPLICATION NO. 1107 OF 2019

WITH

CIVIL APPLICATION NO. 1108 OF 2019

Nikhil Chandru Rajpal
aged 18 years, residing at Building
No.5, Room No.24, Borla Co-op.
Housing Society, Dr. P. G. Road, near
Vasant Cinema, Chembur,
Mumbai 400 074.

...Petitioner

Versus

1. State of Maharashtra through its
Secretary, Social Justice Department,
Mantralaya, Mumbai – 32.
2. District Caste Certificate Scrutiny
Committee, Mumbai Suburban
District through its Member
Secretary, having its office at New
Administrative Bldg. 5th floor, Govt.
Colony, Bandra (E), Mumbai – 400
051.
3. Directorate of Medical Education and
Research, Maharashtra State, having
its office at Dental College Bldg. St.
George's Hospital Compound, near
CST, Mumbai 400 001.
4. Maharashtra Institute of Medical
Education and Research through its
Dean, having its office at Yashwant
Nagar, Talegaon-Dabhade,
Dist. Pune 410 507.
- 4a. Registrar, Maharashtra University of
Health Sciences, Nashik, having
office at St. George's Hospital
Compound, CST, Mumbai 400 001.
5. Additional District Deputy Collector,
Andheri, Mumbai.

...Respondents

Mr. R. K. Mendadkar, a/w Mr. C. K. Bhangoji, for the
Petitioner.

Mr. Y. S. Khochare, AGP for the State/Respondent nos.1 to 3
and 5.

Mr. Nitin S. Dhumal, for Respondent no.4.

Mr. R. V. Govilkar, for Respondent no.4A.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ**

DATED: 18th JULY, 2019

Oral Judgment :- (Per : R. M. Borde, J.)

1. Heard the learned Counsels for the parties.
2. The Petitioner claims to belong to 'Bava Caste', which is included in Nomadic Tribe Category. The Petitioner has been admitted to the MBBS course as against the seat reserved for Nomadic Tribe Category. The caste certificate issued to the Petitioner was referred for the verification to the Scrutiny Committee and, by order dated 20th March, 2017, after observing the procedure prescribed under the Act and in observance of the principles of natural justice, the Committee has taken a decision and directed invalidation of the caste certificate issued to the Petitioner. We have perused the order passed by the Scrutiny Committee and heard the arguments advanced by the respective Counsels.
3. The Scrutiny Committee recorded the finding in affirmative answering the issue that the Petitioner belongs to

‘Bava’, Nomadic Tribe. It has been held by the Committee that the forefathers of the Petitioner were residents of State of Maharashtra prior to 21st November, 1961. The Scrutiny Committee proceeded to record the finding that the Petitioner has migrated to the State of Maharashtra and he belongs to ‘Sindhi Community’. However, the Committee has proceeded to reject the claim relying upon the Government Resolution dated 2nd June, 2004, which directs deletion of entry of ‘Sindhi Bava’ from Nomadic Tribe category. The Petitioner contends that he belongs to ‘Bava’ community and certificate in that regard placed before the Scrutiny Committee indicates the entry of caste ‘Bava’ and not ‘Sindhi Bava’. The Scrutiny Committee has committed error in understanding the difference in categorisation of castes and has equated caste ‘Bava’ with ‘Sindhi Bava’ and has proceeded to reject the claim of the Petitioner. The Petitioner also contends that his blood relations namely Gaurav Nand Rajpal and Varun Nand Rajpal, the cousin brothers of the Petitioner have been granted the validation certificate by the Scrutiny Committee on 13th May, 2012 and on 18th April, 2013, respectively.

4. The Petitioner, relying upon the judgment in the matter of ***Apporva d/o Vinay Nichale vs. Divisional Caste***

Scrutiny Committee¹, contends that since the blood relations of the Petitioner has been granted validation certificate, there is no rational in directing rejection of the claim of the Petitioner. Neither it has been observed by the Scrutiny Committee nor contended by the Respondent that the certificate holders have either relied upon fraudulent record or mislead the Committee while securing the validation certificate.

5. We are of the opinion that the Scrutiny Committee ought to have considered the distinction between two castes and ought not have blindly placed reliance on the Government Resolution dated 2nd June, 2004, for directing invalidation of the caste certificate issued to the Petitioner. The Scrutiny Committee also ought to have considered the aspect that the blood relations of the Petitioner have been issued validation certificate by the Committee certifying that they belong to 'Bava' Nomadic Tribe community. There was no rational in directing rejection of the validation claim of the Petitioner relying upon the aforesaid Government resolution. It is pointed out that the Nomadic Tribe 'Sindhi Bava' was not at all included in the list of Nomadic Tribe before issuance of Notification dated 2nd June, 2004 and, as such, there is no

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rational in directing deletion of entry which was not originally included in Nomadic Tribe category. The aspect that the Scrutiny Committee has already directed issuance of validation certificates to the blood relations of the Petitioner and as such, order directing rejection of the claim of the Petitioner is inconsistent and irrational. The Petitioner contends that the procedure prescribed under rules of calling for the report of vigilance cell has been observed by the Scrutiny Committee and as such it would not be necessary to again direct enquiry by the vigilance cell while reconsidering the claim of the Petitioner. It is pointed out that the Nomadic Tribe 'Sindhi Bava' was not at all included in the list of Nomadic Tribe before issuance of Notification dated 2nd June, 2004 and, as such, there is no rational in directing deletion of entry which was not originally included in Nomadic Tribe category declared by the State. This aspect shall have to be dealt with by the Scrutiny Committee while scrutinising the validation claim of the Petitioner.

6. In the circumstances, we direct the Scrutiny Committee to reconsider the claim of the Petitioner after extending an opportunity of hearing to him and pass a reasoned order, as expeditiously as possible, preferably within two months from today.

7. The Petitioner shall appear before the Scrutiny Committee on 29th July, 2019 and, as such, no separate notice requiring his presence before the Scrutiny Committee shall be necessary.

8. The order impugned in the petition passed by the Scrutiny Committee dated 20th March, 2017, stands quashed and set aside.

9. Rule is made absolute in aforesaid terms.

10. In view of the disposal of the petition, the Civil Applications do not survive and stand disposed of accordingly.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]