

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

WRIT PETITION NO.6167 OF 2018

Smt. Anita Shankarrao Kamble]
@ Supriya Sanjay Suryawanshi,]
Adult, Occu: Service,]
R/o Flat No.28, Rachna Blossom,]
Near Kasturba Colony,]
Audh, Pune-411 007]..Petitioner

Versus

- 1] State of Maharashtra,]
(Through Principal Secretary,]
Social Justice & Special Assistance]
Department, Mantralaya,]
Mumbai-400 032.]
- 2] Caste Scrutiny Committee No.3,]
Having office at]
Jail Road, Behind Commer Zone,]
IT Park, Yerwada, Pune,]
Through its Member Secretary.]
- 3] Executive Engineer,]
Public Works Department, Pune,]
Having office at]
Central Building Area, Pune.]
- 4] Tahsildar & Executive Magistrate,]
Pune City, Dist. Pune]..Respondents

Mr. J. G. Reddy a/w Mr. Arvind Aswani, Advocate for the Petitioner.
Mr. P. G. Sawant, AGP for Respondent Nos.1 to 4.

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ.
DATE : 4th FEBRUARY, 2019**

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

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

2] By way of present Petition, the Petitioner impugns the order passed by the Respondent No.2 – Scrutiny Committee dated 24th April 2014, thereby invalidating the claim of the Petitioner of belonging to “Hindu Khatik”, which is recognized as Scheduled Caste.

3] The Petitioner on the basis of her claim of belonging to “Hindu Khatik” came to be appointed as “Typist” on the establishment of the Respondent No.3 against the seat reserved for Scheduled Caste. Since the Petitioner claimed to be belonging to Scheduled Caste, the claim of the Petitioner was referred to the Respondent No.2 – Scrutiny Committee for considering the validity of her claim. By the impugned order, the claim is rejected. Hence, the present Petition.

4] Heard Mr. J. G. Reddy, learned counsel for the Petitioner and learned AGP for Respondent Nos.1 to 4.

5] We find that the impugned order has been passed totally on erroneous premise. The reasoning given is that though the Petitioner has placed on record the validity certificate belonging to her real brother and nephew, claim of the Petitioner is rejected on the ground that the each claim has to be decided on its own merits. The second reason given is that Petitioner's father originally belongs to Belgaum district and such she has failed to establish that she is original resident of State of Maharashtra.

6] We are of the considered view that the Petition deserves to be allowed on more than one grounds. Firstly, it is seen from record that the Petitioner's real brother, namely Vikas Shankarrao Kamble has been granted validity on 8th November 2004 by the same committee. The Petitioner's brother's son namely Anuj Vikas Kamble has been granted validity on 5th October 2006. The Division Bench of this Court in the case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and others¹ has

1 2010 (6) Mh.L.J. 401.

held that if claim of blood relatives is validated, then the claim of the candidate cannot be rejected. Apart from that it is to be noted that even the vigilance cell inquiry wholly supports the case of the Petitioner.

7] Further the Petitioner has placed on record a document showing that the Petitioner's father was born on 7th July 1936 and his caste while birth recorded as “Hindu Khatik”. The Hon'ble Apex Court in the case of Anand V/s. Committee for Scrutiny of Tribe Claims and others² has held that pre-constitutional documents will have more probative value. Third ground is that the Petitioner has failed to establish that she originally belongs to State of Maharashtra. It is to be noted that Belgaum district, from where the Petitioner's father originally belongs and Pune district, where the Petitioner's father has migrated in the year 1955 and has joined the police services, both belong to erstwhile State of Bombay and on re-organization of States, Pune came in the State of Maharashtra, whereas Belgaum became part of State of Karnataka. It is further to be noted that “Hindu Khatik” is notified as Scheduled Caste in both the State of Maharashtra as well as State of Karnataka. As such, case

² (2012) 1 SCC 113.

of the Petitioner would be squarely covered by the judgment of the Hon'ble Apex Court in the case of Sudhakar Vithal Kumbhare Vs. State of Maharashtra³.

8] In the result, the impugned order is not sustainable in law and following order is passed :-

ORDER

- I] The impugned order dated 24th November 2014 passed by the Respondent No.2 – Scrutiny Committee is quashed and set aside.
- II] It is held and declared that the Petitioner belongs to “Hindu Khatik”, Scheduled Caste.
- III] The Respondent No.2 – Scrutiny Committee is directed to issue Caste Validity Certificate in favour of the Petitioner within a period of two months from the date of uploading of the order.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]

³ (2004) 9 SCC 481.