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

WRIT PETITION NO.7338 OF 2018

Premsing Sheu Pawar	]	
Age: 33 years, Occu:Service,	]	
R/o. Room No.2, Class-II Quarters,	]	
MSEB Colony, Kuwarbav,	]	
Tal and Dist. Ratnagiri.	]	 Petitioner.

V/s

1] State of Maharashtra	]	
Through the Department of	]	
Social Justice, Mantralaya, Mumbai.	]	
	]	
2] District Caste Scrutiny Committee,	]	
Office at Dr Babasaheb Ambedkar	]	
Samajik Nyay Bhavan, Opp. Power	]	
House, Ratnagiri.	]	
	]	
3] Chief Engineer (HRD)	]	
Maharashtra State Electricity	]	
Transmission Co. Ltd., (MSETCL)	]	
Office at Prakash Ganga, 7 th Floor,	]	
Plot No. C-19, E Block,	]	
Bandra Kurla Complex, Bandra (E),	]	
Mumbai.	]	
	]	
4] Executive Engineer,	]	
EHV, O & M, Division Ratnagiri,	]	
MSETCL, Mirjoi MIDC Road,	]	
Kuwarbav, Ratnagiri – 415 639	]	 Respondents.

Mr. D.V. Sutar, Advocate for the Petitioner.

Mr. P.G. Sawant, AGP for Respondent Nos. 1 and 2.

Mr. Abhijeet Joshi, Advocate for Respondent Nos. 3 and 4.

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

DATE: 6th February, 2019

ORAL JUDGMENT : (Per N. J. Jamadar, J.)

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

2] By this Petition, Petitioner has assailed the order passed by District Caste Scrutiny Committee, Respondent No.2 dated 11th June, 2018 whereby the claim of the Petitioner of belonging to the caste 'Laman' i.e. Vimukt Jati (VJ-7) has been invalidated.

3] The substance of the Petition is that, though Respondent No.2 found that the Petitioner, in fact, belongs to the caste 'Laman' (VJ-7), yet his claim was negated on the sole ground that the father and forefathers of the Petitioner were residents of Kondugli, Taluka Sindgi, District Vijapur, Karnataka and therefore the Petitioner is a migrant.

4] We have heard Mr. D. V. Sutar the learned Counsel for the

Petitioner and Mr. P. G. Sawant the learned AGP for the State.

5] It is indisputable that Respondent No.2 – Committee has specifically recorded a finding that the Petitioner belongs to 'Laman' (VJ-7). From the perusal of the impugned order, it becomes evident that the sole reason which prevailed upon Respondent No.2 – Committee to negative the claim of the Petitioner was that the Petitioner is the resident of the place which now does not form part of the State of Maharashtra. The learned Counsel for the Petitioner has placed reliance upon the order passed by a Division Bench of this Court in Writ Petition No.9712 of 2011 dated 24/11/2011 wherein the Court had observed that the fact that a part of District Vijapur, which now forms part of the State of Karnataka, was earlier a part of the erstwhile State of Bombay, before the States' reorganization, ought to have been taken into consideration for grant of caste certificate.

6] The controversy is no longer *res integra*. In view of the Judgment of the Hon'ble Supreme Court in the case of *Sudhakar Vithal Kumbhare vs. State of Maharashtra*¹, it is now well recognized

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

that if both the places, that is, the place from where the claimant or his father/forefather migrated and the place to which they so migrated, formed part of one and the same State before States' reorganisation and now form part of different States, then such claim can not be negated provided the caste or tribe is recognised as the Scheduled Caste/Tribe in both the States. In the instant case, it is indisputable that the village Kondugli, Taluka Sindgi, District Vijapur, and Solapur, where the Petitioner now claims to be residing, were both parts of the erstwhile State of Bombay before the States' reorganization. In this view of the matter, we find that Respondent No. 2 – Committee was not justified in negating the claim of the Petitioner for the sole reason that the Petitioner is a migrant.

7] Hence, we are inclined to allow the Petition in the following terms :-

- I] The impugned order dated 11th June, 2018 passed by Respondent No.2 – Committee is quashed and set aside.

II] It is hereby held and declared that the Petitioner belongs to the caste 'Laman' i.e. Vimukt Jati (VJ-7).

III] Respondent No.2 – Committee is directed to issue validity certificate of the caste 'Laman' (VJ-7) to the Petitioner within a period of three weeks from today. In the circumstances, there shall be no order as to costs.

8] Petition is accordingly allowed and the Rule is made absolute in the aforesaid terms.

(N.J. JAMADAR, J.)

(B. R. GAVAI, J.)