

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

**WRIT PETITION NO. 7345 OF 2014
(Order is corrected as per order dated 31st January 2019)**

Sanjay Pralhad Pardeshi

.. Petitioner

Vs.

State of Maharashtra
through Executive Magistrate
& Ors.

.. Respondents

Mr.J.G. Reddy, Advocate for petitioner.

Mr.Yatin S. Khochare, AGP for respondent Nos.1 to 4.

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

DATE : 17TH JANUARY 2019

JUDGMENT (PER B.R. GAVAI, J.)

1 Rule. Rule is made returnable forthwith. By consent, heard finally.

2 The petitioner has approached this Court being aggrieved by the order passed by the Divisional Caste Scrutiny Committee, Nasik dated 19th July 2014 thereby invalidating the caste claim of the petitioner as belonging to Pardeshi Bhamta, which is recognized as Vimukta Jati as per Government Resolution, dated 19th February 1986.

3 The petitioner came to be appointed as Police Constable on the post reserved for Vimukta Jati. Respondent No.4 forwarded the Claim of the petitioner to the Caste Scrutiny Committee for verification of caste. The

petitioner submitted detailed application along with relevant documentary evidence in support of his caste claim, i.e., caste certificate issued to his two real brothers, namely, Jagdish Pardeshi and Mahesh Pardeshi to whom the Scrutiny Committee has granted validity certificates. The claim of Jagdish Pralhad Pardeshi has been held as valid by an order dated 2nd February 2007. The claim of the another brother of the petitioner Mahesh Pralhad Pardeshi has been validated on 19th March 2003. The petitioner, in support of his claim, has annexed the caste certificates of his other relatives also. In spite of this, the claim of the petitioner came to be rejected vide order dated 8th July 2013.

4 The petitioner, therefore, approached this Court vide Writ Petition No. 6800 of 2013. This Court, vide order dated 18th February 2014, quashed and set aside the order dated 8th July 2013 passed by respondent No.2 in view of the law laid down in a judgment of a Division Bench of this Court in *Apoorva d/o Vinay Nichale Vs. 1. Divisional Caste Certificate Scrutiny Committee No.1 & Ors.*¹ wherein it was held that if a Committee has given finding about the validity of the caste of a candidate, another committee could not refuse the same status to a blood relative who applies subsequently. A merely different view on the same facts would not entitle the Committee dealing with the subsequent caste claim to reject it.

1 2010 Mh.L.J. 401

Therefore, the Court observed that the order of the Scrutiny Committee was not sustainable and the same was set aside and the matter was remitted back to the Scrutiny Committee for reconsideration.

5 We have perused the order of the Scrutiny Committee. The Scrutiny Committee, after referring to the validity certificates of the real brothers of the petitioner, has held that the same are not binding upon the Committee since the petitioner has not produced any pre-1961 document.

6 We find that the approach of the Committee is apart from being illegal, also contemptuous in nature. The petitioner, in addition to the other relevant documents, has produced the validity certificates of his real brothers so also his validity claim is held genuine by the Vigilance Cell. There is no doubt that the report of the Vigilance Cell is not binding on the Committee. If the Committee is of the view that the claims of the petitioner's brothers were validated by practicing fraud, the Scrutiny Committee should have taken action against the petitioner's brothers. However, that has not been done. Merely because pre-1961 documents are not available, that cannot be a ground for rejecting the claim of the petitioner.

7 In view of the judgment of the Hon'ble Apex Court in *Anand Vs.*

*Committee for Scrutiny & Verification of Tribe Claims & Ors.*², documents having origin prior to the Presidential notification showing the said tribe as V.J.N.T., would be given more priority. However, in absence of the such documents, the other factors will have to be taken into consideration. In any case, in view of the judgment of the Division Bench of the case of *Apoorva d/o Vinay Nichale* (Supra), the Committee was bound to issue validity certificate

8 In that view of the matter, the impugned order is quashed and set aside. It is held and declared that the petitioner belongs to **Pardeshi Bhamta** which is recognized as V.J.N.T. The Committee is directed to issue the validity Certificate within a period of two weeks from today.

9 Rule is made absolute in the aforesaid terms, with no order as to costs.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]

2 (2012) 1 SCC 113