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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9237 OF 2016

Rajesh Ramesh Gaikwad

.. Petitioner

Vs.

State of Maharashtra and ors.

.. Respondents

Mr. R. K. Mendadkar for petitioner.

Mr. M. M. Pabale, AGP for respondent Nos.1 to 4.

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

JULY 02, 2019.

P.C.

1. The petitioner has challenged the order passed by the Scheduled Tribe Certificate Scrutiny Committee, Pune dated 22 June 2016 cancelling the validity certificate issued to the petitioner on 14 March 2001 as belonging to “Thakar” scheduled tribe.

2. One Ms. Aishwarya Sudhakar Gaikwad had obtained a caste certificate as belonging to “Hindu Thakar” scheduled tribe.

Her caste certificate was referred to the Scrutiny Committee, Pune. In these proceedings, Ms Aishwarya relied upon the validity certificate dated 14 March 2001 issued to the petitioner. The Scrutiny Committee called for record regarding the petitioner's validity certificate. As the Scrutiny Committee assessed the record, following state of affairs emerged.

3. The petitioner had obtained a caste certificate as belonging to "Thakar" scheduled tribe from the Executive Magistrate, Madha, District Solapur on 29 June 1992. The Scrutiny Committee, by order dated 6 March 1995 invalidated this caste certificate. The petitioner filed a Writ Petition No. 2664 of 1995 challenging the order of invalidation. Rule was issued. While this writ petition was pending, the petitioner obtained another caste certificate on 1 August 2000. On 19 March 2003, the Advocate for the petitioner informed the court that he had instructions to withdraw the Petition. The petition was dismissed as withdrawn. On this caste certificate, a validity certificate was issued on 13 February 2001.

4. Taking a serious note, the Scrutiny Committee issued a show-cause notice to the petitioner on 10 February 2016, as to why the subsequent validity certificate be not cancelled because of

the clear suppression of the earlier invalidation and withdrawal of the petition. The petitioner gave a reply on 20 April 2016. After that, the Scrutiny Committee heard the petitioner and concluded that the petitioner had committed fraud, and in such cases it would have the power to recall a fraudulently obtained validity certificate. The Scrutiny Committee relied on the decision of this court in the case of *Sangeeta Sharad Kolse vs State of Maharashtra & Ors.*¹

5. We have gone through the reply of the petitioner to the show-cause notice. The reply is only reproduction of legal provisions and grandiose quotations from literature. There is no denial of the case put against the petitioner on facts. The factual position narrated above is established.

6. What emerges is that the petitioner, while his writ petition challenging invalidation of his earlier caste certificate was pending in this court, approached the authority obtained a new caste certificate, surreptitiously withdrew the Petition and obtained a new validity certificate. That the petitioner fully knew what he was doing and there was a *modus operandi* is clear from the petitioner withdrawing the writ petition. Either the petitioner had

¹ W.P. No.337/2003 & W.P.No.5271/2002 decided on 05.05.2006.and passed the impugned order recalling the validity certificate.

taken advantage of the record being in disarray because of many cases pending before the authorities or that an assistance rendered to the petitioner from someone from the department in achieving this aim. The regretful part is that the Advocate who represented the Petitioner throughout, including the present writ petition, is the same. The Scrutiny Committee was right in commenting on the duty on the part of an Advocate to be fair and candid.

7. The petitioner has perpetuated a fraud. The Scrutiny committee was justified in concluding so. The consequent action of recalling such a fraudulent validity certificate is also justified. The invalidation of caste certificate issued to the petitioner earlier having become final by the withdrawal of the petition, there is no question of a second caste certificate and validity certificate.

8. Besides this position, the petitioner has invoked the extraordinary jurisdiction of this court, and when convinced that the petitioner guilty of misleading the authorities by deceit, we will decline to exercise the jurisdiction.

9. The writ petition is dismissed.

N. M. JAMDAR, J.

CHIEF JUSTICE