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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9075 OF 2019**

Akanksha Uttam Raipalle

.....Petitioner

V/s.

State of Maharashtra through
Secretary, Tribal Development
Dept. and others

.....Respondents

Mr. R. K. Mendadkar, Mr. T. V. Jadhav & Ms. Priyanka Shaw for the
PetitionerShri. A. A. Kumbhakoni, Advocate General a/w Shri. P. P. Kakade
AGP & Mrs. Neha Bhinde 'B' Panel counsel for the State**CORAM : NITIN W. SAMBRE &
G. S. KULKARNI, JJ.****DATE : 19th AUGUST, 2019.****Oral Judgment : (Per G. S. Kulkarni, J.)**

Rule. Returnable forthwith by consent of the parties heard finally.

2 By this petition under Article 226 of the Constitution of India, the petitioner challenges the legality and validity of the order dated

01/08/2019 passed by respondent no. 2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad (for short 'the committee'), whereby the committee has invalidated the caste certificate of the petitioner as belonging to the 'Koli Mahadev' schedule tribe, falling under the constitution (schedule tribe) order 1950.

3 The petitioner was issued a caste certificate dated 26/02/2009 by the Deputy Collector, Osmanabad of the petitioner belonging to 'Koli Mahadev' scheduled tribe. The petitioner has stated that she moved the Committee by an application dated 15/04/2019 seeking validation of her caste certificate. In support of her claim, petitioner submitted about 26 documents which pertained to the petitioner herself, her father, her uncle, brother and cousin brothers pointing out that the claim made by the petitioner belonging to 'Koli Mahadev' is a valid claim. Along with the documents, petitioner also submitted a caste validity certificate issued by the Committee in favour of her father on 10/06/2008, to contend that the Committee has validated the caste claim of her father as belonging to 'Koli Mahadev' schedule tribe.

4 Petitioner has appeared for NEET (UG) 2019 examination and has secured a high score becoming eligible for admission to the under graduate medical course for the academic year 2019-2020. Accordingly, she pursued her application filed before the Committee for grant of a caste validity certificate.

5 By the impugned order dated 01/08/2019, Committee considering the documents placed on record by the petitioner, a Vigilance Inquiry report and report of Research Officer, did not find favour in the claim made by the petitioner that she belongs to 'Koli Mahadev' Scheduled Tribe. The Committee has come to a conclusion that the documents submitted by the petitioner are not sufficient to allow the claim of the petitioner. The committee also held that the petitioner could not prove her affinity to the 'Koli Mahadev' Scheduled Tribe, as seen from the affinity test.

6 In regard to the caste validity certificate granted by the Committee in favour of her father on 10/06/2008, the Committee

appears to be of the opinion that the validity has been obtained illegally on the basis of false and fabricated documents. Learned special counsel for the respondents contends that the committee has appropriately reached to a conclusion to reject caste validity to the petitioner on the ground that the petitioner's father had obtained validity of his caste certificate on fabricated documents. It is submitted that the reasoning of the committee is required to be accepted.

7 Having heard learned counsel for the parties and having perused the original record, we are not persuaded to accept the reasons as set out by the Committee in rejecting the caste validity claim of the petitioner. We do not find that there are cogent reasons, to accept the respondents contention that the caste validity which was granted in favour of petitioner's father, in any manner was vitiated by any fraud or was granted on the basis of any alleged false and fabricated documents. We find from a comparative perusal of the original record of the petitioner application and that of her father, that the disclosure of the documents as made by the

petitioner was similar to the disclosure as made by the petitioner's father. On perusal of the original record as produced by the learned special counsel we find that the petitioner had submitted about 26 documents. The oldest document appears to be of 1951 of her great-grandfather as noted above indicating the caste of the great-grandfather as 'Koli Mahadev'. There are other 16 documents of the petitioner and of the other relatives which show the caste of the petitioner and her relatives to be 'Koli Mahadev'. We have also perused the order dated 10/06/2008 passed by the Caste Scrutiny Committee whereby validity was granted in favour of petitioner's father. It is a well reasoned order which has been passed taking into consideration the necessary documents and the requirements as per law including the Vigilance report and several documents which were placed on record, in granting caste validity certificate to the petitioner's father as belonging to the 'Koli Mahadev' schedule tribe.

8 It needs to be observed that, the Committee has not specified as to which are the alleged false or fabricated documents which were produced by the petitioner's father on the basis of which validity was

granted and/or procured by the father. The Committee appears to have merely observed that the extract of National Citizens Register of the great-grand father of the petitioner, namely, Shri. Saduba Vithoba of the year 1951 is presently found in a debilitated condition and hence the said document has been disbelieved.

9 From the reasons which have been set out in the impugned order, we prima facie do not find there is any substantive and tangible material to displace any of the reasoning set out in the said order dated 10/06/2008 passed by the Caste Scrutiny Committee granting caste validity to the petitioner's father, which was certainly relevant to grant a validity certificate in favour of the petitioner.

10 The principles of law when the near relatives of an applicant are granted a caste validity certificate are well settled. In a decision of the Division Bench of this Court in the case of **Apoorva Vs. Divisional Caste Scrutiny Committee No. 1 and Ors.**¹ Mr. Justice S. A. Bobde (as His Lordship then was) speaking for the bench

¹ [2010 (6) Mh.L.J.]

observed thus :

“4. We have considered the matter and we are of the view that the petitioner's caste claim that she belongs to Kanjar Bhat - Nomadic Tribe ought to have been accepted by the Committee merely on the basis that identical caste claim of her sister that she belongs to Kanjar Bhat has been allowed by the Committee, even apart from the Government Resolution. We are of the opinion that the guidelines provided by the said Govt. Resolution are sound and based on sound principles. It would indeed be chaotic otherwise. If the relationship by blood is established or not doubted, and one such relative has been confirmed as belonging to a particular caste, there is no reason why public time or money should be spent in the committee testing the same evidence and making the same conclusion unless of course the Committee finds on the evidence that the validity of the certificate of such relation has been obtained by fraud.

7. In the decision of the Division Bench of this Court in “Dinesh Ramesh Thakur V. The State of Maharashtra”² this court referring to the decision of the Full Bench of this court in “Shilpa Vishnu Thakur v. State of Maharashtra”³ held that the scrutiny committee is not prohibited from applying the place of residence 'as one of the factors' to be considered in arriving at a decision for the validation of the claim of the claimant. These observations are also affirmed by the Full Bench of this Court in “Yogita d/o Anil Sonawane v. State of Maharashtra” (supra).

9. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different

² Writ Petition No. 9627 of 2011 decided on 28 March 2012

³ 2009 (5) AIR Bom (R) 478

view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.”

11 In a recent decision of the Division Bench of this Court in **Prashant Pandit Shelke v. State of Maharashtra**⁴ to which one of us (G. S. Kulkarni J.) is a member, in somewhat identical situation, wherein the father of the petitioner therein, was granted a caste validity certificate by the committee, the following observations were made :-

“5. It is not in dispute that the petitioner's father – Pandit Shamrao Shelke approached the caste scrutiny committee in the year 2007 seeking validity of the caste certificate issued to him belonging to the scheduled tribe 'Koli Mahadev'. It is also not in dispute that the said caste scrutiny committee had invited a vigilance report and pertinently all the details including the details of residence as furnished in the said application which are similar to that of the petitioner were considered.

We are not shown any material which would persuade us to conclude that the validity certificate which has been granted to the petitioner's father was granted on any fraud being played

4 (2017) 6 AIR Bom R 635

or the committee having acted without jurisdiction or that the conclusion which has arrived at by the said scrutiny committee was based on such material that no reasonable body could reach such conclusion....”

12 In view of the above discussion, we are of the opinion that the petitioner is required to be granted a caste validity certificate as granted to her father by the Committee.

13 In the circumstances, petition deserves to succeed. Impugned order dated 01/08/2019 passed by the Committee is hereby quashed and set aside. The caste scrutiny committee is directed to grant to the petitioner, within period of one week from the date of receipt of this order, a caste validity certificate of the petitioner belonging to ‘Koli Mahadev’ Scheduled Tribe. Ordered accordingly.

14 The order however will not prejudice any notice, if issued, the State to the petitioner’s father seeking cancellation of the caste validity certificate granted him. All contentions of the parties in this regard are kept open.

[G. S. KULKARNI, J.]

[NITIN W. SAMBRE, J.]