

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

WRIT PETITION NO.9580 OF 2015

Maythili Prakash Devlapure ... Petitioner
Vs
State of Maharashtra
Through its Secretary & Ors. ... Respondents

...
Mr. Suresh Dhole for the Petitioner.
Mr. S.B.Kalel, AGP for the Respondent Nos.1 to 3.

**CORAM : B.R.GAVAI &
SANDEEP K. SHINDE JJ.**
DATE : 12 MARCH, 2019

P.C. :

Rule. Rule made returnable forthwith.

2 Heard by consent.

3 By way of present petition, the petitioner challenges the order dated 28th July, 2015 passed by the respondent no.2-Scrutiny Committee thereby invalidating the claim of the petitioner of belonging to 'Burud' caste which is notified as scheduled caste.

4 Since the Petitioner belongs to 'Burud' caste which is notified as scheduled caste in the State of Maharashtra, the Petitioner has applied to Scrutiny Committee through the Competent Authority for validation of his claim.

5 Petitioner's claim is rejected on the ground that Petitioner's forefather belonged to Bailhongal in Belgaum District. It is held that since the Petitioner's forefather did not belong to the State of Maharashtra, the Petitioner is not entitled to the benefit of scheduled caste.

6 The Petition deserves to be allowed on two grounds. Firstly, in view of the law laid down by the Hon'ble Apex Court in the case of **Sudhakar Vithal Kumbhare v. State of Maharashtra (2004) 9 SCC 481** If the place which the candidate's forefather originally belonged and the place where the forefathers have migrated, both were part of one state prior to re-organisation but after re-organisation falls within two

different states and if such a caste is recognised as a scheduled caste in both the states, then such candidate cannot be denied benefit of scheduled caste. Undisputedly, Belgaum where the Petitioner's forefather originally belonged and Pune where the Petitioner's family migrated were originally part of State of Bombay. After re-organisation of States, Belgaum became part of the Karnataka State whereas Pune became part of the Maharashtra State. As such, on this ground, petitioner's claim could not have been rejected.

7 Secondly, it is to be noted that petitioner's father namely Bholenath Shankarrao Devlapur, who has subsequently changed his name as Prakash Shankar Devlapure has already been granted validity certificate by competent Scrutiny Committee vide order dated 7th January, 1989. As such in view of the law laid down by the Apex Court in the case of **Sudha Kumbhare v. State of Maharashtra** claim could not have been rejected.

8 In the result, impugned order is quashed and set aside. The Petitioner is held and declared to be belonging to 'Burud' scheduled caste. Respondent-Committee is directed to issue validity certificate to the petitioner within a period of two weeks from the date on which the order is uploaded.

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

(SANDEEP K. SHINDE, J.)

(B.R.GAVAI, J.)