

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 6557 OF 2011

Vikas s/o. Sitaram More,
Age : 44 years, Occu. Agriculturist,
R/o. Kharde (Bk), Tq. Sindhakheda,
Dist. Dhule.

.. Petitioner

Versus

1] The State of Maharashtra,
Through Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.

2] The Scheduled Caste, S.T., V.J.N.T.,
OBC and SBC Certificate Scrutiny
Committee, Dhule, Dhule.

.. Respondents

....
Shri. P. V. Jadhavar, Advocate for the petitioner
Smt. D. S. Jape, AGP for respondent/State
....

**CORAM : SUNIL P. DESHMUKH
AND
B. U. DEBADWAR, JJ.**

Date : 09-03-2020

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J.] :

1. Rule. Rule made returnable forthwith. Heard
learned counsel for the appearing parties, finally.

2. The petitioner before us is aggrieved by the decision of the Caste Scrutiny Committee, Dhule, dated 24-12-2010, whereunder his claim to validate certificate showing him to be belonging to '*Kunabi*' (Other Backward Class), has been rejected.

3. Learned counsel for the petitioner points out that the oldest document showing his grand-father Dayaram Bhabuta as '*Kunabi*' pertaining to the year 1925, has been only referred to and has not been weighed at all. While this is the oldest document and genealogy showing his relationship and his forefathers and also affinity as well as vigilance report have not been disputed, simply relying on the school leaving certificate of his father and him showing them to be '*Hindu-Marathe*', is a gross error committed by the Committee. He submits that, while Marathas then were being considered to be from upper class, generally people were shy of disclosing their original community in the records. In the circumstances, the oldest document ought to have been weighed along with the affinity and the vigilance report and the same having not been considered

properly, there is error apparent in the decision and deserves to be reversed.

5. Learned counsel for the petitioner places reliance on the decision of the Division Bench of this Court in the case *Prakash S. Patil v. State of Maharashtra [2008 (5) Mh.L.J. 202]*, whereunder, the court under paragraph no. 22, has referred to that while entries in documents having probative value show the persons from '*Kunabi*' community, the Committee ought to have validated the certificate of the petitioner. The court had further observed that, apart from the same, the vigilance squad appointed by the committee had concluded that the petitioner belongs to '*Kunabi*' community.

4. On the other hand, the learned AGP contends that the petitioner relies on a solitary document of 1925. There is no other document showing petitioner or even his obstructed heritage is from '*Kunabi*' community. Even the revenue record does not refer to the same. Neither the mutation nor the land holdings of the family members of

the petitioner refer to their community as '*Kunabi*'. Coupled with the same, the record in respect of the petitioner's father and petitioner show them to be *Hindu-Marathe*. She, therefore, submits that there is no error committed by the Committee in discarding the claim of the petitioner.

6. Taking into account aforesaid submissions and the decision, it appears that, in the present case, genealogy of the petitioner showing his relationship to Dayaram Babhuta whose document of 1925 does show him belonging to '*Kunabi*' community has not received its due, rather the committee has considered that its impact as have been effaced by the documents comparatively of subsequent origin wherein they are referred to as '*Marathe*' (not *Maratha*).

7. In the light of the decision referred to above, considering the observations in paragraph no. 22 of the decision referred to above and that the genealogy of the petitioner having not been disputed, the vigilance cell report as well is of some significance, we consider it appropriate to direct the scrutiny committee to consider the petitioner's

claim for validation of '*Kunabi*' community taking into account the considerations which ought to be weighed in addition to the oldest documents viz; affinity test and the vigilance report.

8. As such, the petition is allowed. The impugned order is set aside with direction as aforesaid. Writ petition is accordingly disposed of.

9. Rule made absolute accordingly.

[B. U. DEBADWAR, J.]

[SUNIL P. DESHMUKH, J.]