

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
921 REVIEW APPLICATION (CIVIL) NO.133 OF 2020
IN WP/12295/2018**

ARUNA SHIVRAJ ANUMULA ALIAS
ARUNA W/O VITTHAL KUDMULWAR ..APPLICANT

VERSUS

THE STATE OF MAHARASHTRA AND ORS. ..RESPONDENTS

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Mr. P. R. Katneshwarkar h/f Mr. G. R. Syed,
Advocate for the Applicant.
Mr. S. S. Dande, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.
DATED : 02nd SEPTEMBER, 2020.**

PER COURT:-

1. The applicant seeks review of the judgment and order passed by this Court in Writ Petition No.12295/2018 with Writ Petition No.1753/2019 dated 16.06.2020.

2. Mr. Katneshwarkar, learned counsel for review applicant submits that applicant is married in the year 1987 and is a resident of the State of Maharashtra since 30 years. The applicant cannot be termed as a migrant. As per circular dated 11.07.1996 issued by the State Government a competent authority is empowered to issue caste certificate to a person who is resident of particular place for 15 years. In view of that, the applicant cannot be termed as migrant. The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Abhinav Dipakbhai Patel Vs. Director Transport Department**

reported in 2017 (3) AIR Bom. R 745 and confirmed by the Apex Court in Civil Appeal No.4665 of 2019 under its judgment and order dated 07.05.2019.

3. The learned counsel further submits that this Court while deciding the writ petition relied upon the judgments delivered by the Apex Court and this Court under Article 341 and 342 of the Constitution of India. These Articles deal with the Presidential orders. As far as OBC and Special Backward Classes is concerned the same is within the authority of the State Government. In view of that, the judgment relied by this Court would not be relevant.

4. The learned counsel further submits that this Court heavily relied upon the judgment in a case of **Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College and Others** reported in (1990) 3 SCC 130. In that case the Apex Court was not considering the domicile of a person for 15 years. The said point was kept open by the Apex Court. The learned counsel further submits that the Notification placing the caste of the petitioner (Mannur Kapu) as SBC was under Notification dated 07.12.1994. The applicant is a resident of State of Maharashtra prior to the said date. In view of that also the applicant cannot be termed as migrant.

5. We have considered the submissions canvassed by the learned counsel for the review applicant.

6. In a case of **Abhinav Dipakbhai Patel Vs. Director Transport Department** (supra) the provisions of the Maharashtra Scheduled Castes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2012 and Rules 2012 were not subject matter of consideration.

7. While deciding the writ petition under our judgment dated 16.06.2020 we had considered that the cut off date for a person to be deemed migrant has been provided in the Statute and the Rules. We have also considered the judgments holding the field. Though it is contended that providing reservation for OBC and special Backward Classe is within the domain of the State Government, still the Act 2012 and Rules 2012 have provided for the cut off date for OBC caste also.

8. In light of that, the applicant having migrated to Maharashtra upon marriage in the year 1987 that is after the cut off date of 13.10.1967 is treated as migrant for claiming benefit of reservation.

9. Considering the above, we do not find an error apparent on the face of record. We have taken a view based on the earlier judgments of this Court and the interpretation of the provisions of the Maharashtra Scheduled Castes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category

(Regulation of Issuance and Verification of) Caste Certificate Act, 2012 and Rules 2012 therein.

10. In light of that, Review application is dismissed. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/September-2020