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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3822 OF 2014**

Sahebrao Murlidhar Gawade

...Petitioner

VS.

State of Maharashtra & Ors.

...Respondents

Ms A.R.S.Baxi for the petitioner

Mr.R.S.Pawar, AGP for State

**CORAM : RANJIT MORE &
SURENDRA P.TAVADE, JJ.**

DATE : JANUARY 15, 2020.

P. C. :

. Heard the learned counsel for the petitioner and the learned AGP for State.

2 By this petition under Article 226 of the Constitution of India, the petitioner is challenging the order dated 3rd March 2014 passed by the respondent No.2-Special Backward Class Scrutiny Committee, Solapur. By the said order, the petitioner's claim that he belongs to caste "Kunbi" (OBC) is invalidated.

3 The petitioner obtained the caste certificate dated 20th August 2001 from the Sub Divisional Officer, Karmala, District Solapur that he belongs to "Kunbi" caste. On the strength of his caste certificate, the petitioner got employment in the Zilla Parishad, Satara. The caste certificate of the petitioner was sent to respondent No.2-Committee which

was invalidated by the impugned order.

4 In support of the caste claim of the petitioner, he relied upon 11 documents including the caste certificate issued in his favour by the Sub Divisional Officer. Out of the documents referred in the impugned order, document at Sl Nos. 6 to 8 of the entries in Birth and Death Register of 1896 are important for disposal of the present petition. Document at sl.no.6 is the extract of Birth and Death Register of Sakharam Bap Dena Gawade. Document at Sl.No.7 is also the extract of Birth and Death Register in respect of Tatya Bap Bapu Gawade. Document at Sl.8 is also the extract of Birth and Death Register in respect of Tukaram Jyoti. Gawade. All these documents are very old documents. In all these three documents caste of Sakharam, Tatya and Tukaram is shown as "Kunbi".

5 The petitioner claims that Sakharam and Tatya are the petitioner's cousin grandfather. This claim of the petitioner was rejected by the Caste Scrutiny Committee on the ground that the petitioner's relation with Sakaharam and Tatya is not established. We do not find any reason to interfere with the said order since the genealogy relied upon by the petitioner also does not refer to the name of Sakharam and Tatya.

6 So far as document at Sl.8 referred above in respect of Tukaram Gawade is concerned, the same pertains to the year 1896-97 and it is the extract of Birth and Death Register. The document reveals that while registering the date of death of Tukaram his caste is shown as "Kunbi". This document is not relied upon by respondent No.2-Committee

on the ground that the petitioner failed to prove the blood relation with Tukaram Gawade. This finding in our considered view is not borne out by the Committee. The petitioner relied upon the genealogy given in the affidavit dated 6.7.2012 and application dated 1.8.2001 before the Tahsildar. Both the genealogies show that Tukaram Gawade was the great great great grand father. In that view of the matter, finding of the respondent No.2-Committee that the petitioner failed to prove the relationship with Tukaram Gawade cannot be sustained. The impugned order deserves to be quashed and set aside and the matter deserves to be remanded back to the respondent No.2-Committee for reconsideration of the petitioner's claim in the light of the observations made above.

7 Hence, we dispose of this petition by passing the following order:

(I) Impugned order dated 3.3.2014 passed by respondent No.2-Committee is quashed and set aside and the matter is remanded back for afresh consideration of the petitioner's claim in the light of the observations made hereinabove.

(II) Respondent No.2-Committee shall decide the caste claim of the petitioner afresh as expeditiously as possible and in any event within a period of six months from the date of receipt of this order.

(III) Till the fresh decision is taken by Respondent No.2-Committee in respect of the caste claim of the petitioner, respondent No.2 shall not terminate the services of the petitioner on the ground of non submission of the caste validity certificate of the petitioner.

[SURENDRA P.TAVADE, J.]

[RANJIT MORE, J.]