

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1586 OF 2021

Sharvil Purushottam Charude through father Purushottam Bhagwan Charude	...	Petitioner
Vs.		
State of Maharashtra and others	...	Respondents

Mr. R. K. Mendadkar a/w. Mr. T. V. Jadhav for Petitioner.
Mrs. P. N. Diwan, AGP for Respondents-State.

**CORAM : R. D. DHANUKA &
R. N. LADDHA, JJ.**

DATE : DECEMBER 14, 2021

P.C. :-

By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 27.08.2020 passed by respondent No.2-Committee with further direction to respondent No.2-Committee to issue certificate of validity in relation to the caste certificate dated 26.06.2010 issued to the petitioner by respondent No.3 Competent Authority.

2. The petitioner was granted caste certificate by the Competent Authority on 26.06.2010 certifying that the petitioner belongs to *Mahadeo Koli*.

3. Before the Scrutiny Committee, the petitioner placed reliance upon the caste validity certificates issued by the Scrutiny Committee itself in favour of the father of the petitioner - Purushottam Bhagwan Charude, brother of the petitioner - Ameya Purushottam Charude and cousin uncle of the petitioner - Subhash Rajaram Charude. It is the case of the petitioner that since the Scrutiny Committee has already validated the caste claim of the father, brother and cousin uncle of the petitioner, Scrutiny Committee by the impugned order could not have rejected the caste validity claim of the petitioner.

4. Learned AGP, on the other hand, strongly placed reliance upon the contentions raised in the affidavit in reply filed by the Scrutiny Committee and relied upon certain documents prior to the appointed date in support of the submissions that the entry in those pre-constitutional documents would show caste as *Hindu Koli* and not *Mahadeo Koli*. She submitted that the Caste Scrutiny Committee has already issued separate show cause notices against the father, brother and cousin uncle of the petitioner as to why their caste validity certificates should not be cancelled and they have already filed reply to the show cause notice issued by the Caste Scrutiny Committee which proceedings are still pending since the last two years.

5. During the course of arguments, Mr. Mendadkar, learned counsel relied upon several judgments for consideration of this Court. While dealing with one of the judgments referred to and relied upon by the learned AGP in case of *Rushikesh Bharat Garud Vs. State of Maharashtra (Writ Petition No.11536 of 2021)*, learned counsel for the petitioner pointed out that the said judgment is already set aside by the Hon'ble Supreme Court in **Civil Appeal No.7442 of 2021** on 10.12.2021. He submits that no reliance thus can be placed by learned AGP on the judgment delivered by this Court thereby rejecting **Writ Petition No.11536 of 2021** filed by *Rushikesh Bharat Garud* before this Court.

6. Learned counsel for the petitioner does not dispute that the three caste validity certificates relied upon by the petitioner which were issued in favour of his father, brother and cousin uncle are subject matter of show cause notices issued by the Caste Scrutiny Committee for recalling those certificates on various grounds and the said proceedings are still pending.

7. At this stage, it would be apposite to refer to the judgment of the Hon'ble Supreme Court in **Rushikesh Bharat Garud (supra)** on which

Mr. Mendadkar, learned counsel for the petitioner placed reliance upon.

8. This Court in Writ Petition No.11536 of 2021 had rejected the caste claim of the petitioner therein. The petitioner therein impugned the said judgment of this Court before the Hon'ble Supreme Court in Civil Appeal No.7442 of 2021. In paragraph 4 of the said judgment, the Hon'ble Supreme Court noticed that the cases of the father of the appellant and his cousins had been re-opened and the notices had been issued to show cause why their caste certificates be not cancelled. The Hon'ble Supreme Court observed that the validity of the caste certificates in favour of the father of the appellant and in favour of his cousins was at large before the Scrutiny Committee and thus it would be appropriate if the cases of all, namely father of the appellant, cousins of the appellant and the appellant therein be considered together, to avoid any conflicting orders.

9. In paragraph 5 of the said order passed by the Hon'ble Supreme Court, it was directed that without expressing anything on the validity of the caste certificate issued in favour of the appellant, the impugned judgment and order of the High Court is set aside and the matter is remanded to the Scrutiny Committee to consider the validity of the caste certificate issued in favour of the appellant therein afresh along with the cases of his father and his cousins whose cases were sought to be re-opened and the said issue was at large before the Scrutiny Committee. The Hon'ble Supreme Court accordingly directed the Scrutiny Committee to pass fresh orders in accordance with law and on its own merits and on the basis of the material available on record and / or that may be produced and pass a speaking order at the earliest, preferably within a period of three months from the date of the said order.

10. In this petition also the petitioner's case for caste claim is solely depending upon the caste validity certificates issued by the Caste Scrutiny Committee in favour of the father, brother and cousin uncle of

the petitioner which are the subject matter of the show cause notices issued by the Caste Scrutiny Committee and the issue is at large. If the caste validity certificates issued in favour of the father, brother and cousin uncle of the petitioner are found valid in the enquiry initiated by the Caste Scrutiny Committee pursuant to show cause notices issued by the Caste Scrutiny Committee, the petitioner would also get benefit of the said order. On the other hand, if the caste validity certificates issued by the Caste Scrutiny Committee in favour of the father, brother and cousin uncle of the petitioner are recalled under the provisions of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 then in that event the caste claim of the petitioner will be required to be rejected.

11. Without going into the correctness of the impugned order and to avoid any inconsistency and conflicting orders in those three proceedings which are sought to be re-opened by the Caste Scrutiny Committee in case of the father, brother and cousin uncle of the petitioner, we deem it appropriate to set aside the impugned order passed by the Caste Scrutiny Committee and remand this matter also to the Caste Scrutiny Committee who has issued show cause notices to the father, brother and cousin uncle of the petitioner for considering the caste claim of the petitioner afresh jointly with the other three cases viz., petitioner's father's, brother's and cousin uncle's cases to have consistency and to avoid any conflicting orders.

12. We are informed by learned counsel for the petitioner that the proceedings in the said show cause notice issued to the petitioner by the Caste Scrutiny Committee are pending since the last two years. Mrs. Diwan, learned AGP strongly contended that the father, brother and cousin uncle of the petitioner are taking adjournments again and again before the Caste Scrutiny Committee for the reasons best known to

them. Statements made by learned AGP and learned counsel for the petitioner are accepted.

13. We accordingly pass the following order:-

- a. The impugned order dated 27.08.2020 passed by respondent No.2-Committee is quashed and set aside;
- b. The caste claim of the petitioner is remanded to respondent No.2-Committee to be heard along with the show cause notices issued by respondent No.2-Committee against the father, brother and cousin uncle of the petitioner;
- c. Respondent No.2-Committee shall consider the case of the petitioner also along with the father, brother and cousin uncle of the petitioner;
- d. The petitioner would also be at liberty to rely upon the additional documents before Respondent No.2-Committee;
- e. Respondent No.2-Committee shall pass an order on the said three show cause notices and in the caste claim of the petitioner together in accordance with law;
- f. The petitioner shall appear before respondent No.2-Committee on 21.12.2021 at 11:00 a.m. Father, brother and cousin uncle of the petitioner shall also remain present before respondent No.2-Committee on the said date and time to enable respondent No.2-Committee to fix an early date for hearing of the show cause notices and the caste claim of the petitioner. The petitioner as well as his father, brother and cousin uncle shall co-operate with respondent No.2-Committee so as to enable respondent No.2-Committee to decide the matter expeditiously and not later than eight weeks from the date of the first meeting;

- g. If the petitioner or his father, brother and cousin uncle do not co-operate with respondent No.2-Committee, their conduct shall be recorded in the *Rojnama*; and
- h. All contentions of the petitioner raised in this petition and the contentions of his father, brother and cousin uncle raised in the reply to the show cause notices are kept open.

14. Writ petition is disposed of in the aforesaid terms. There shall be no order as to costs.

15. Parties to act on an authenticated copy of this order.

16. Learned AGP to convey this order to respondent No.2-Committee for information and compliance.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)

Minal Parab