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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5436 OF 2019

Nikita L. Maske	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.R.K. Mendarkar with Ms.Komal Gaikwad for the Petitioner.

Mr.Rajan S. Pawar, AGP for the State- Respondent Nos.1 to 3.

CORAM : R.D. DHANUKA &
V.G. BISHT, JJ.
DATE : 15TH MARCH, 2021.

P.C. :-

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for quashing and setting aside the impugned order and judgment dated 18th October, 2011 passed by the respondent no.2 Committee with further direction to the respondent no.2 Committee to issue the certificate of validity in respect of the caste certificate issued by the respondent no.3 in favour of the petitioner.

2. It is the case of the petitioner that the petitioner belongs to Thakar, Scheduled Tribes which is recognized as Scheduled Tribe in terms of Constitution (Scheduled Tribes) Order, 1950 as amended by Scheduled Castes and Scheduled Tribes Orders (Amendment) Act,

1976. The petitioner was granted caste certificate by the respondent no.3 after confirming genuineness of documents placed on record on 21st July, 2007 certifying that the petitioner belongs to Thakar, Scheduled Tribe.

3. The petitioner moved to the respondent no.2 Committee for verification of caste certificate in the year 2020 for education purpose. She also submitted voluminous documents before the respondent no.2 Committee including School Leaving Certificate of her cousin great grandfather namely Sakharam Bhiku Maske issued on 8th April, 1926.

4. The respondent no.2 Committee called for vigilance cell report from its Vigilance Cell Officer in the case of the petitioner. The Vigilance Cell Officer during the course of enquiry verified the vital documents in the nature of school record of cousin great grandfather i.e. Sakharam Bhiku Mhaske showing his caste as Thakar as on 8th April, 1926 and another school record of real grandfather of the petitioner showing his caste as Thakar as on 29th October, 1946. The Vigilance Cell also confirmed the genuineness of the documents produced by the petitioner. The Vigilance Cell Officer also recorded the statement of the father of the petitioner in regard to traits, characteristics, traditions and customs etc. which was furnished by the father of the petitioner.

5. The petitioner was thereafter called for hearing by the respondent no.2 Committee on 28th September, 2011. The respondent no.2 Committee passed the impugned order on 18th October, 2011 invalidating the tribe claim of the petitioner.

6. The petitioner has impugned the said order on various grounds.

7. Mr.Mendadkar, learned counsel for the petitioner tenders a copy of the judgment delivered by the Division Bench of this Court on 8th January, 2021 in case of **Smt.Jayshree Subhash Suryawanshi @ Smt.Jayshree Nitin Thakur vs. The State of Maharashtra & Ors.** and would submit that the grounds on which the caste validity certificate of the petitioner was invalidated by the Committee are negated by this Court in the said detailed judgment delivered on 8th January, 2021. We are informed by the learned counsel for the petitioner that the respondents State has not impugned the said judgment dated 8th January, 2021 passed by this Court before the Hon'ble Supreme Court till date. Statement is accepted.

8. Learned AGP for the respondents is not in a position to distinguish the said judgment in case of **Smt.Jayshree Subhash Suryawanshi @ Smt.Jayshree Nitin Thakur** (supra).

9. In our view, the grounds on which the caste validity certificate was granted in favour of the petitioner has been

invalidated by the Scrutiny Committee are all negated by the detailed judgment of this Court in case of **Smt.Jayshree Subhash Suryawanshi @ Smt.Jayshree Nitin Thakur** (supra). The said judgment clearly applies to the facts of this case. We are respectfully bound by the said judgment.

10. In our view, there is no substance in any of the contentions raised by the petitioners in the affidavit in reply. In our view all the said contentions are contrary to the view already expressed by this Court and the same are accordingly rejected.

11. We therefore, pass the following order :-

a). The writ petition is made absolute in terms of prayer clauses (a) and (b).

b). The respondent no.2 Committee is directed to issue certificate of validity in respect of the caste certificate issued by the respondent no.3 in favour of the petitioner within two weeks from today.

c). The writ petition is made absolute in aforesaid terms. There shall be no order as to costs.

d). All parties to act on the authenticated copy of this order duly authenticated by the Sheristadar of this Court.

(V.G. BISHT, J.)

(R.D. DHANUKA, J.)

Vasant
A. Idhol

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by Vasant A. Idhol
Date: 2021.03.16
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