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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 5622 OF 2021

Pranav Dilip Wagh

... Petitioner

Vs

The State of Maharashtra through Secretary
& Ors.

... Respondents

Mr.R.K.Mendadkar, advocate for the Petitioner
Ms Kavita N. Solunke AGP for the Respondent/State.

CORAM : R. D. DHANUKA &

ABHAY AHUJA, JJ.

DATE : 24th SEPTEMBER, 2021

P.C.:

Rule. Learned AGP waives service. By consent of parties taken up for final hearing.

2. By this petition filed under Article 226 of the Constitution of India the petitioner prays for setting aside the order dated 3rd September, 2021 passed by respondent No.2/ Committee invalidating the Caste Certificate issued to the petitioner.

3 In our order dated 20th September, 2021 we have set out the controversy involved in this matter. After adverting to the

judgment of the Full Bench of this Court in the case of ***Rajendra Shivram Thakur Vs State of Maharashtra & Ors., 2019 (4) Mh.L.J. 721*** and after adverting to Rule 5(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 this Court directed the learned AGP to consider the judgment of the Full Bench of this Court in the case of Rajendra Thakur (supra) and to make an appropriate statement before this Court whether the said judgment applies to the facts of this case or not.

4 In the facts of this case the grandfather of the petitioner, namely, Murlidhar Sonu Wagh was granted a caste certificate on 15th January, 1982 bearing S.R. No. 13/82 being resident of Amalner, District Jalgaon in the State of Maharashtra. On the basis of the said Caste Certificate granted in favour of the petitioner, the petitioner was issued a Caste Certificate in Form "C" after considering Rule 4(6) and 5(2) (a) and (b). The petitioner was migrated to Kalyan, District :- Thane. In Clause (2) of the said certificate it is provided that the petitioner to ordinarily reside(s) in village /town Kalyan, taluka :- Kalyan, of Thane District. It is further provided that the petitioner had migrated at Kalyan, Tal. Kalyan, Dist. Thane.

5 In paragraph 60 of the judgment of the Full Bench of this Court in the case of Rajendra Thakur (supra) it is held that the candidate desirous of seeking a caste certificate shall have to apply to the Competent Authority having jurisdiction over the area or place to which he/ she or his / her father or grandfather originally belongs or was/ is an ordinary residents or native of that place. The said proposition is, however, subject to exception in cases where such applicants can produce tribe certificate issued in favour of their father or grandfather issued by Competent Authority, of their original place of residence as on the date of presidential order of their tribe.

6 This Court by an order dated 30th July, 2021 in Writ Petition No. 2439 of 2021 filed by the petitioner against the State of Maharashtra directed the petitioner to appear before the Caste Scrutiny Committee and directed the said Committee to consider the submissions made by the petitioner and respondent No.2 and to take into consideration the decision of the Full Bench of this Court in the case of Rajendra Thakur (supra).

7. Perusal of the impugned order passed by the Secutiny Committee indicates that the Scrutiny Committee has totally misconstrued the judgment of the Full Bench of this Court in the case of Rajendra Thakur (supra) and has rejected the caste claim of the petitioner on the ground of jurisdiction of the Caste Scrutiny Committee having jurisdiction in Thane district.

8 In our view, since it was the case of migration from one district to another district, and the caste certificate was granted in favour of the grandfather of the petitioner at Amalner, Dist. Jalgaon, the petitioner having been migrated from Amalner, Dist. Jalgaon to Kalyan, Dist. Thane the Caste Scrutiny Committee Thane would have jurisdiction to consider the said caste claim of the petitioner. The case of the petitioner is covered by the judgment of the Full Bench of this Court in case of Rajendra Thakur (supra) and more particularly para 60 of the said judgment. The impugned order of the Scrutiny Committee being contrary to the principles of law laid down by this Court in the case of Rajendra Shviram Thakur (supra) , the impugned order is quashed and set aside.

9. A perusal of the said impugned order further indicates

that the caste claim of the petitioner has not been rejected on merits. We, accordingly, pass the following order.

ORDER

1. The impugned order dated 3rd September, 2021 annexed to the Writ Petition at Exh “A” is quashed and set aside;
2. It is declared that respondent No.2 has territorial jurisdiction to entertain the caste claim of the petitioner. Respondent No.2 is directed to consider the said caste claim of the petitioner on its own merits and in accordance with law and shall render finding whether the petitioner belongs to Thakur Caste (Scheduled Tribe) or not in the order that would be passed. Respondent No.2 shall pass an order after hearing the petitioner and shall make an endeavour to dispose of the same on or before 15th October, 2021 and shall communicate the same to the petitioner within a period of one week thereafter;
3. If the order would be adverse to the petitioner, the

petitioner would be at liberty to file appropriate proceedings against that order;

4. Rule is made absolute in the aforesaid terms.
5. The petitioner shall appear before the Scrutiny Committee / Respondent No.2 on 29th September, 2021 at 11.00 a.m. The petitioner would be at liberty to advance the oral submissions as well as submit the written arguments along with documents.

10 There shall be no order as to costs.

11 Parties to act on the authenticated copy of this order.

(*ABHAY AHUJA, J.*)

(*R. D. DHANUKA, J.*)