

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

WRIT PETITION NO.8353 OF 2021

Siddhi Suhas Shewale & Anr. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

Mr.C.K.Bhangoji a/w Mr.V.A. Madane for the petitioners.
Mrs.P.N. Diwan, AGP for the respondent nos.1 and 2.

**CORAM : R.D. DHANUKA
ABHAYAHUJA, JJ.**
DATE : 4th December 2021

P.C.:-

. Rule. Learned AGP for the respondent nos.1 and 2 waives service. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners have impugned the order dated 15th November 2021 passed by the respondent no.2 committee with further direction to verify the caste certificates of the petitioners on merits in accordance with law.

3. It is the case of the petitioners that forefathers of the petitioners originally hails from Pune District where great grandfather namely Gopinath Kashinath Shewale was residing on rent at Bunglow

No.219/B, Shivaji Nagar, Pune. Fathers of the petitioners had been granted caste certificates by the Tahsildar and Executive Magistrate at Pune on 29th November 1985 and 14th July 1987 as belonging to Halba, Scheduled Tribe. Accordingly, the respondent no.2 committee had granted caste validity certificates in favour of fathers of the petitioners on 28th June 2000 and 20th August 2016 in pursuance to the orders passed by this Court. The petitioners had been granted a caste certificate by the Deputy Collector, Pune on 5th January 2011 and 30th April 2017 respectively. The petitioners had applied to the respondent no.2 committee for verification of their caste certificates for their education purpose. Upon submitting proposals, the respondent no.2 committee called the vigilance cell report in case of the petitioners on 13th October 2021 however, at the verge of admission process, the respondent no.2 passed an order dated 15th November 2021 cancelling caste certificates of the petitioners on the ground that the petitioners should obtain their caste certificates from their present place of residence.

4. Learned counsel for the petitioners states that vigilance enquiry is already completed. The respondent no.2 however, rejected the said applications only on the ground that the petitioners ought to have obtained their caste certificates from Nagpur and not from Pune.

5. Learned counsel placed reliance on the judgment of Full Bench of this Court in case of ***Rajendra Shivram Thakur Vs. State of Maharashtra & Ors., 2019 (4) Mh.L.J. 721*** and more particularly particular 59 in support of the submission that the Scrutiny Committee was required to consider what is the place of residence of the petitioner or his forefathers at the time of presidential order in respect of his castes/tribes and whether the certificate issued is by the competent authority of that particular area or not.

6. Learned counsel invited our attention to the document at page 21 issued by Pune Nagarpalika in the name of Gopinath Kashinath Shewale, the great grandfather of the petitioners and would submit that the address of the great grandfather of the petitioners on the said document is Pune. The said document would also clearly show that the address of great grandfather of the petitioners at Pune on the said document was in the year 1948. He submits that the impugned order passed by this Court is contrary to the principles of law laid down in case of ***Rajendra Shivram Thakur (supra)***.

7. Mrs.Diwan, learned AGP for the respondent nos.1 and 2 is not able to distinguish the judgment of Full Bench of this Court in case

of ***Rajendra Shivram Thakur (supra)*** in view of the documents annexed to the petition by the petitioners and more particularly the document at Exhibit 'B' at page 21 of the petition.

8. In our view, the view taken by the Scrutiny Committee is contrary to the principles of law laid down by the Full Bench of this Court in case of ***Rajendra Shivram Thakur (supra)***. The Scrutiny Committee could not have rejected the applications on the ground that the petitioners ought to have obtained caste certificate from the Competent Authority at Nagpur though the address of the predecessor of the petitioners on the date of presidential order i.e. 6th September 1950 was of Pune.

9. We accordingly pass the following order :-

- (i) Writ petition is allowed in terms of prayer clause (a).
- (ii) The Scrutiny Committee shall make an endeavour to decide the applications for verification of the caste certificates on its own merits before 2.00 p.m. on 7th December 2021.
- (iii) If the application made by the petitioners is allowed by the Scrutiny Committee, the caste validity certificate should be issued forthwith.

(iv) It is made clear that directions issued by us to consider caste validation claim on or before 7th December 2021 shall not be used as president in any other matter.

(v) The petitioners are directed to remain present before the Competent Authority at 11.00 a.m. on 6th December 2021 for further arguments.

10. Writ petition is allowed in aforesaid terms. Rule is made absolute accordingly. No order as to costs. Parties to act on the authenticated copy of this order.

ABHAY AHUJA, J.

R.D. DHANUKA, J.