

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SACHIN
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WRIT PETITION NO. 11335 OF 2014

Rajendra Ramchandra Mavale,]
Age 51yrs, Occ : Service,]
R/at : B-308, Kumar CHS Ltd,]
MHADA Colony, Mulund (East),]
Mumbai – 400 081.] ...Petitioner.

Versus

1] The Director,]
Through The Directorate of Forensic]
Science Laboratories, Maharashtra State]
Office at Vidya Nagar, Hans Bhugra Marg,]
Santacruz (East), Mumbai – 400008.]
2] The Secretary,]
Through Maharashtra Public Service]
Commission, Office at Bank of India,]
Bldg, 3rd Floor, Mahatma Gandhi Road,]
Hutatma Chowk, Mumbai 400001.]
3] The Chairman / Secretary,]
Through Divisional Caste Scrutiny]
Committee, nashik Division, Nashik.]
4] Bhausaheb Parshuram More,]
Age : Adult, Occ : Service,]
Directorate of Forensic]
Science Laboratories, Maharashtra State]
Office at Vidya Nagar, Hans Bhugra Marg,]
Vidayanagari, Kalina]
Santacruz (East), Mumbai – 400008.]
5] The State of Maharashtra,]
Through Department of Home Affairs,]
Office at Pole-4, 16th Floor, World Trade]
Centre, Cuff Parade, Mumbai.] ..Respondents.

Mr. Vaibhav P. Patankar for the Petitioner.
Ms. Ashwini A. Purav, AGP for Respondent Nos. 1 to 3 & 5.
Mr. M. V. Thorat i/b Mr. P. V. Thorat for Respondent No. 4.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : November 22, 2021.

Judgment (Per Prasanna B. Varale, J.) :

1. The petition is taken up for final hearing by consent of learned counsel appearing for the respective parties.
2. Heard learned counsel for the Petitioner, learned AGP for Respondent Nos.1, 2, 3 and 5 as well as learned counsel for Respondent No.4.
3. The Petitioner is an employee of State Government, working in the Directorate of Forensic Sciences Laboratories at Regional Forensic Laboratory, Pune as Assistant Director. Perusal of the contentions raised in petition shows that at the time of promotion for the post of Deputy Director, the Petitioner and Respondent No.4 submitted their respective claims, and Respondent No.4 was selected for the promotional post of Deputy Director. The Petitioner challenges the entry of Respondent No.4 in the service itself on the ground that Respondent No.4 entered in service on the basis of social status conferred upon him vide caste validity certificate issued through Respondent No.3, i.e., the Divisional Caste Scrutiny Committee Nashik

Division, Nashik, dated 27th February 2008, that the Petitioner belongs to “Kunabi OBC” category.

4. It is vehemently submitted that Respondent No.3 committee not only mechanically issued the said validity certificate but the committee gave a complete go-bye to the entire process and procedure and without following the requirement of provisions of *Maharashtra Scheduled Castes, 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* [hereinafter for the sake of brevity referred to as “*the said Act*”] and particularly giving a go-bye to the procedure laid down under section 13 of the said Act, issued the caste validity certificate.

5. Perusal of the order-sheet shows that the division bench of this Court by its order dated 6th February 2020 made a reference to the challenge raised in the petition and directed the Divisional Caste Scrutiny Committee to file an affidavit placing on record the procedure followed by it as to whether while granting the validity certificate, the same is to be accompanied by a reasoned order or not. The affidavit was directed to be filed before the next scheduled date and matter was adjourned to 2nd April 2020.

. Perusal of record further shows that on behalf of Respondent No.2, i.e., MPSC, an additional affidavit-in-reply is filed through Mr. Sunil S. Kesarkar, Deputy Secretary. This affidavit refers to the details such as an advertisement issued for selection of the candidates for the post of Deputy Director. Then it states about the requisite criteria laid down for selection of candidate, such as the minimum marks, experience, etc. It is then submitted that Respondent No.4 produced the caste certificate issued to him by SDO Shrirampur dated 28th October 2004, non creamy layer certificate which was valid upto 2017. The sum and substance of affidavit filed on behalf of the MPSC is that the selection of Respondent No.4 was as per the necessary requirement and by complying with the procedural formalities. This affidavit-in-reply may not be very relevant and material for our purpose insofar as the issue raised before this Court, i.e., of validity certificate issued by the competent scrutiny committee without assigning any reasons is concerned. Learned counsel for the Petitioner submitted that the said Act prescribes certain procedure and pre-requisites. It would be necessary to refer to those relevant provisions of the said Act.

6. Section 2(d) of the said Act refers to the definition of term "*decision of Scrutiny Committee*" and the provision reads thus :

(d) "decision of Scrutiny Committee" means a **reasoned order**

passed by the Scrutiny committee, by following due procedure and upon **appreciating necessary, basic and requisite evidence** placed on record.”

Emphasis supplied by us.

7. It may not be necessary for us to refer to other provisions of the said Act. Suffice it to say that the Act lays down the procedure for constitution of committee, its members, constitution of vigilance cell, the verification of caste certificate, the information to be supplied by the Applicant, etc., Section 18 of the said Act deals with the aspect of “*hearing of scrutiny committee*”. Sub-section (3) of Section 18 is another relevant provision and it reads thus :

“(3) The decision of Committee shall be by majority :
provided that, majority decision shall be communicated as decision of Scrutiny Committee, with judgment of all the assenting members along with separate judgment by dissenting member”

8. Now, on the backdrop of above provisions if we peruse the affidavit-in-reply filed on behalf of Respondent No.3 – Committee dated 16th November 2021, through Member Secretary, it would reveal that an attempt is made by the committee to submit before this Court that the procedure was followed and thereafter claim of Respondent No.4 was validated. However, his affidavit is totally silent on the aspect of reflection of evaluation of material by the committee by way of a reasoned order of committee, which is the requirement under the said

Act. It is stated in the affidavit-in-reply that the Directorate of Forensic Science Laboratory sent the caste proposal along with letter and documents supporting the caste claim of Respondent no.4 to the Divisional Caste Scrutiny Committee, Nashik and in addition to caste certificate and evidence village form no.14 regarding blood relation to his father's side was investigated and evaluated in accordance with Maharashtra SC, ST, VJ, NT, OBC and SBC Act 2000 and Rules of 2012 and thereafter Respondent No.3 scrutiny committee issued separately validity certificate as per provided format by the senior officer of the committee. Then reference to the document placed on record is made, namely, Exhibit-1 copy of the committee decision and Exhibit-2 copy of caste validity certificate issued to Respondent No. 4.

9. Interestingly enough, the documents placed on record along with the affidavit-in-reply, Exhibit-1 is in the form of certain handwritten entries. It refers to the document along with the year of the document and the relationship of the persons with the Petitioner, for example, it refers to entry showing father, name of the village, caste as "Maratha" and this document is of the year 1939. Then it refers to certain other documents and family tree placed on record along with the affidavit. Then, it is stated that the note is submitted to the committee for its decision (सविनय निर्णयस्तव सादर). Then again there are certain hand-

written entries referring to the documents and the document concludes with the words "valid Kunbai". There are two signatories on this document. Neither status nor any official stamp showing the status of these signatories finds place on this document.

10. The committee in its affidavit takes a spacious plea that Exhibit-1 is the basis for issuing validity certificate, i.e., Exhibit-2. We are unable to accept this justification of committee as it utterly fails to comply with the requirement of provisions of the said Act. At the cost of repetition, we may state that section 2(d) while referring to the term "*decision of scrutiny committee*" makes it more than clear that decision of the committee means the reasoned order where the appreciation of necessary, basic and requisite evidence placed on record is reflected.

11. Section 12 of the Act refers to the constitution of vigilance cell and the various tasks undertaken by vigilance cell are referred to such as collection of information by personally visiting the places including revenue offices or school offices. It seems that while making entries on document at Exhibit-1, the committee thought it fit to waive this requirement.

12. Be that as it may, considering the document Exhibit-1

placed on record along with the affidavit of Committee by any angle, we are unable to treat this document as reasoned order passed by the authority as per the definition of the term “*decision of Scrutiny Committee*” under section 2(d) of the said Act. We are of the opinion that the scrutiny committee only mechanically and casually prepared the document Exhibit-1 which is placed on record along with affidavit-in-reply to submit that this is the decision of the committee. The document utterly fails to comply with the requirement of the Act.

13. At this place, It may not be out of place to refer to the judgment on this Court in Lokmanya Nagar Priyadarshani vs. State of Maharashtra [(2007) 1 Bom CR 929] wherein the emphasis is laid on **the reasoned order** while passing orders by authorities including the quasi-judicial authorities and tribunals. It would be apposite to reproduce the relevant portion from the said case, which reads thus :

“In large number of matters, this Court finds orders being passed perfunctorily by the Department without dealing with the contentions and giving reasons in support of the order. This is one of those case. It is needless to mention that the order of the judicial, quasi judicial or the administrative authority should be a self-explanatory order and should not keep the Higher Court guessing for reasons..... the reasons provides link between conclusion and the evidence. Reason is manifestation of mind of adjudicature. It is a tool for judging the order. It gives opportunity to the higher Court to see whether or not the order is passed on the relevant material.”

14. At this stage, learned counsel for Respondent No.4, on

instructions from Respondent No.4, who is present in the Court submits that Respondent No.4 be permitted to submit his claim for validity certificate afresh to Respondent No.3-committee. He further submits that till such claim is decided by the Committee, Respondent No.4 will not claim any benefit on the basis of validity certificate issued in favour of petitioner dated 27th February 2008. Though Respondent No.4 submits before this Court that he will not claim any benefit on the basis of caste validity certificate dated 27th February 2008, in our opinion, as the certificate is issued without following requirements of the said Act, the certificate issued in favour of Respondent No.4 cannot be treated as the legal certificate or certificate having any sanctity to it. Therefore, the caste validity certificate dated 27th February 2008 issued in favour of Respondent No. 4 is quashed and set aside. Respondent No.4 is permitted to make claim to Respondent No. 3 – Committee afresh within four weeks from today, either personally or through his employer, i.e., Respondent No. 5. In case, such a claim is received by Respondent No. 3 Committee, Respondent No.3-Committee to decide the said claim as early as possible and in any case not later than 16 weeks from the date of receipt of claim. Needless to state that till the claim of Petitioner submitted to the committee is decided, no coercive action insofar as the services of Respondent No.4 are concerned be initiated.

15. With the above referred observations and directions,
petition is disposed of.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]