

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6760 OF 2015

Omkar Vasant Pol

..... Petitioner

VERSUS

State of Maharashtra & Ors.

..... Respondents

Mr. R.K.Mendadkar for the Petitioner.

Mr.S.B.Kalel, A.G.P. for the State.

CORAM : A.S.CHANDURKAR &

G.A.SANAP, JJ.

DATE : 21ST APRIL, 2022.

P.C:-

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to order passed by the Scrutiny Committee on 20th June, 2015 thereby invalidating the claim of the petitioner of belonging to 'Dhor', Scheduled Caste. The reason for invalidation of the caste claim is that the petitioner and his forefathers could not establish that they were the residents of the State of Maharashtra prior to 10th August, 1950.

3. The learned counsel for the petitioner submits that the Scrutiny Committee erred in refusing to validate the caste claim of the petitioner. The findings as recorded in the impugned order were not in accordance with law. The old documents submitted by the petitioner indicate that the family was residing at Pattankudi, Taluka Chikodi, District Belgaum which not a part of the State of Maharashtra and therefore the petitioner's permanent address was not in Maharashtra was one of the reasons assigned by the Scrutiny Committee. Placing reliance on the decision in ***Writ Petition No. 12099 of 2012 (Rajendra Shripati Malage vs. State of Maharashtra & Ors.)*** decided on 26th October, 2018 it is submitted that this Court has held that on for the reason that the claimant was residing at Taluka Chikodi in Belgaum District, such claimant cannot be denied the benefits of belonging to that category if that caste is recognized as a Scheduled Caste in the State of Karnataka. It is thus submitted that the Scrutiny Committee erred in not deciding the claim of the petitioner on merits.

4. The learned Assistant Government Pleader for the respondents supported the impugned order. According to him, the documents relied upon by the petitioner did not pertain to the State of Maharashtra and

the Committee was justified in passing the impugned order.

5. A perusal of the impugned order indicates that the Committee has found that various old documents submitted by the petitioner were from Pattankudi, Taluka Chikodi, District Belgaum. It is for that reason that the Committee proceeded to invalidate the caste claim of the petitioner. The Division Bench in ***Rajendra Shripati Malage*** (supra) has considered a somewhat similar case of a claimant who had produced documents from Chikodi Taluka in Belgaum District. In paragraphs (5) and (6) of that decision it has been observed as under :-

(5) It could thus be seen that the Hon'ble Apex Court has held that if prior to the re-organization of the States, the area in which a candidate originally resides and the area where he is migrated, were in the same State and if the Caste/Tribe is notified as Scheduled Caste or Scheduled Tribe in both the State, then such a candidate cannot be denied the benefit of belonging to that category.

(6) Undisputedly prior to the re-organization of the States, both Chikodi taluka in Belgaum district and Kolhapur were the part of State of

Bombay. Only after the re-organization, Kolhapur district has come in the State of Maharashtra, whereas Chikodi taluka in Belgaum district is in the State of Karnataka. A judicial note is also taken of the fact that there is long standing agitation by the residents of Belgaum district for their inclusion in the State of Maharashtra.

6. We find that in the present case, the documents relied upon by the petitioner are also from Chikodi Taluka, District Belgaum. It was therefore necessary for the Scrutiny Committee to examine the claim of the petitioner on merits by following the prescribed procedure. The Scrutiny Committee also did not conduct any enquiry by the Vigilance Cell and proceeded to invalidate the claim of the petitioner. In view of the aforesaid decision, we are inclined to remand the proceedings to the Scrutiny Committee for fresh adjudication. We, accordingly pass the following order :-

(a) The order dated 20th June, 2015 passed by the Scrutiny Committee invalidating the caste claim of the petitioner is set aside.

(b) The proceedings are remanded to the Scrutiny Committee for fresh adjudication by

following prescribed procedure.

(c) The Scrutiny Committee shall take into consideration the observations of this Court in case of ***Rajendra Shripati Malage*** (supra) including the aspect as to whether 'Dhor' community is recognized as a Scheduled Caste in the State of Karnataka. It shall decide the caste claim of the petitioner in accordance with law preferably within a period of four months from the first date of appearance of the petitioner before the Scrutiny Committee.

(d) The petitioner shall appear before the Scrutiny Committee on 28th April, 2022 so that the issuance of notice to him is not necessary.

(e) All questions on merits are kept open.

(f) Rule is made accordingly.

[G.A.SANAP, J.]

[A.S.CHANDURKAR, J.]