

UMESH
SHRINIWAS
MALANI

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

WRIT PETITION NO. 4840 OF 2022

Rohidas Namdeo Lad

Aged : 49 yrs, Occ : Business,
R/o. Hedvali, Enghar,
Dist. Roha

...Petitioner

Versus

- 1. The District Caste Scrutiny
Committee, Raigad**
- 2. The Group Gram Panchayat,
Enghar, Roha, Raigad.**
- 3. Mr. Sunil Ramling Jangam,
Aged Nil, Occ : Business,
R/o. Hedvali, Enghar
Dist. Roha**
- 4. The Sub-Divisional Officer,
Roha Division, Raigad.**
- 5. The State of Maharashtra**
- 6. The Tahasildar,
Roha, Raigad.**

...Respondents

Adv. Amith Anandhan with Adv. Nikhil Mallelwar, Adv.
Sachin Pawar, Adv. Rohal Kaiche for Petitioner.
Adv. R. M. Shinde, AGP for Respondent No. 1 to 4 and 6
– State.
Adv. C. G. Gavnekar a/w Adv. Ashutosh Gavnekar for
Respondent No. 3.

**CORAM : PRASANNA B. VARALE &
SHRIKANT D. KULKARNI, JJ.**

DATE : JUNE 22, 2022

JUDGMENT (PER PRASANNA B. VARALE, J)

1. **Rule.** Rule made returnable forthwith. With the consent of learned Counsel appearing for the respective parties, the matter is taken up for hearing and final disposal, at admission stage itself.

2. By way of present Petition, Petitioner is challenging the order passed by the Respondent No. 1 – District Caste Scrutiny Committee, dated 25th January, 2022, whereby claim of the Petitioner that he belongs to Kunbi category and member of OBC category is rejected. So also, Respondent No. 1 directed Sub-Divisional Officer, Roha Division, Raigad to seize / confiscate the caste certificate issued in favour of the Petitioner.

3. Petitioner is the resident of Hedvali, Enghar, Dt. Roha and carries a business. The elections of Group Grampanchayat, Enghar, Roha were scheduled in the month of January, 2021. Petitioner contested the election by submitting his candidature as a member of reserved category candidate. The Petitioner was elected as a member of the panchayat as a reserved category candidate. While contesting the election, the

Petitioner submitted the caste certificate dated 31st July, 2015 issued by the Sub-Divisional Officer, Raigad. The said caste certificate was forwarded for validation.

The Respondent No. 3 raised a serious objection in respect of caste certificate and submitted that Petitioner has obtained caste certificate by submitting fraudulent/forged documents. The Respondent No. 1 – Scrutiny Committee after considering the documents submitted by the Petitioner in support of his claim, vigilance cell report and after giving an opportunity of hearing to the parties and calling upon the relevant original documents, rejected the claim of the Petitioner.

4. Learned Counsel appearing for the Petitioner vehemently submitted that the Petitioner has submitted various documents in the form of school leaving certificate of the Petitioner himself, school leaving certificate of his Petitioner, school leaving certificate of his aunt wherein the social status is shown as Hindu Kunbi and Hindu Kunbi Maratha respectively. It is further submitted by the learned

Counsel for the Petitioner that the vigilance cell report also supports the claim of the Petitioner. Learned Counsel further submitted that the Petitioner submitted validity certificate granted by the Scrutiny Committee in favour of his sister. Learned Counsel, thus, submitted that while considering the documents, Scrutiny Committee has framed two points for consideration as follows:

1) As to whether the Petitioner proved that he and his forefathers were the resident of the State of Maharashtra on the deemed date i.e., 31st October, 1967 ?

2) Whether the Petitioner proved his claim that he belongs to Kunbi category?

5. Learned Counsel appearing for Petitioner submitted that on considering the documents the Committee has recorded its positive finding in so far as the first issue raised for consideration. But only on assumptions and presumptions, the Respondent No. 1 Committee arrived at conclusion that certain documents submitted by the Petitioner are forged documents and rejected the claim of the Petitioner. Learned Counsel by placing heavy reliance on the judgment of this Court

in the matter of Soham Arun Mandlik and Ors Vs. State of Maharashtra and Ors¹, submitted that the Scrutiny Committee erred in rejecting the claim of the Petitioner. Thus, learned Counsel appearing for Petitioner prayed for allowing the Petition.

6. *Per contra*, learned AGP as well as learned Counsel appearing for Respondent No. 3 supported the order of the Scrutiny Committee.

7. With the able assistance of learned Counsel appearing for respective parties, we have gone through the material placed on record.

8. The Petitioner along with his claim submitted as many as 9 documents. Admittedly, all these documents are of post independence era. Document no. 1 is the caste certificate issued by Sub-Divisional Officer and it was the subject matter before the Scrutiny Committee. Document no. 2 is the Aadhar card of the Petitioner and this document cannot throw any light on the social status of the Petitioner. Document no. 3 is the school leaving certificate of the Petitioner dated 31st May, 1997 issued by the Headmaster of Smt. Gulabbai

1 WRIT PETITION NO. 8147 OF 2019

Ramnivas Agarwal Vidyamandir, Nagothane, Roha, District. Raigad. In this document the social status of the Petitioner is shown as Hindu Kunbi. Then the next document is the school leaving certificate of father of the Petitioner dated 07th July, 2015 issued by the Headmaster, Raigad Z.P. School, Hedvali, Tq. Roha, Dist. Raigad. In this document the social status of father of the Petitioner is shown as Hindu Kunbi Maratha. Then the next document is caste certificate issued in favour of the sister of the Petitioner, namely, Vaishali Namdeo Lad. The document nos. 6 to 8 are the affidavits filed by the Petitioner himself dated 21st December, 2020 & 22nd December, 2021 respectively. The last document is of school leaving certificate dated 17th November, 2011 of the aunt of the Petitioner, namely, Jana Laxman Lad issued by the Headmaster of Raigad Z.P. School, Enghar, Hedvali, Tq. Roha showing social status as Hindu Kunbi Maratha.

9. While opposing the claim of the Petitioner, the Respondent No. 3 filed certain documents and the said documents are in the nature of a contra material against the claim of the Petitioner. These documents

are the birth entry of the great grandfather of the Petitioner dated 05th March, 1922 showing the caste of the Petitioner's great grandfather as Maratha. Then there is another document in the form of birth register showing birth date of grandfather of the Petitioner dated 21st November, 1926 and the caste referred in this document of the grandfather of the Petitioner as Marathi. School leaving certificate showing caste of the father of the Petitioner as Hindu Kunbi Maratha is also placed on record and general register certificate maintained in the school in respect of uncle of the Petitioner, namely, Tanhaji Laxman Lad showing the admission in the school on 05th June, 1957 and the caste of the uncle of the Petitioner is shown as Hindu Kunbi Maratha.

10. The committee while considering the documents also referred to an inquiry pending in the Court of Civil Judge Junior Division, Rohe in an election dispute i.e., Election Inquiry Application no. 2 of 2021. This fact was brought to the notice of the committee at the instance of objector i.e., Respondent No. 3 before this Court. The committee as per the

procedure set out in the Act referred the documents for scrutiny to the vigilance cell and vigilance cell submitted its report to the committee on 02nd December, 2021. It is specifically stated in the report that on actual visit to Raigad Z.P. School and on verification of the school register it revealed that an entry is effected at Sr. No. 33 showing name of person as Namdeo Laxman Lad and the caste referred to as Hindu Kunbi Maratha. It is further stated in the vigilance cell report that there is a visible difference in the letter and the ink of the word Kunbi. The said register entry shows the date of birth as 10th April, 1952 and admission in the school as 13th March, 1962. The copy of the said document is also annexed to the vigilance cell report. Then there is a reference made to the school leaving certificate of Smt. Gulabai Ramnivas Agarwal Vidyamandir, Nagothane, Roha, Dt. Raigad of the Petitioner, the caste of the Petitioner referred to in this general register as Hindu Kunbi and date of birth is stated as 23rd October, 1980 and date of admission in the school is 18th June, 1990. In the home inquiry, statements of certain residents of village Dhangarwada post Enghar, Tq. Roha, District Raigad are recorded.

11. As stated above, the Scrutiny Committee framed two points for consideration and the first issue in so far as the residence is concerned, the issue is replied in affirmative. The reasons are also assigned by the Scrutiny Committee in paragraph 16 of the order. While considering the second issue the Scrutiny Committee referred to the entry in the general register maintained by the concerned school. The Scrutiny Committee specifically observed that the original school record i.e., general register was verified by the Scrutiny Committee and the Scrutiny Committee found that there is a visible difference in the lettering and the ink in the word Kunbi.

Now on this very document, i.e., school leaving certificate of father of Petitioner i.e., Namdev Laxman Lad, a validity certificate was issued in favour of sister of the Petitioner, namely, Vaishali Namdev Lad. The Scrutiny Committee then specifically observed that as the validity certificate issued to the sister of the Petitioner on the basis of the document i.e., school leaving certificate of the Petitioner and that document is in question. On perusal of the

original document, the Committee found that the word Kunbi is a visibly in a different lettering and ink. This document neither can be relied on nor can be considered as supporting document to the claim of the Petitioner that he belongs to Kunbi category.

Apart from this document, we may state that the objector i.e., Respondent No. 3 submitted the contra material before the Committee in the form of birth entries of the great grandfather of the Petitioner as well as grandfather of the Petitioner showing the caste as Maratha and Marathi respectively.

12. The Scrutiny Committee granted opportunity of hearing to the Petitioner as well as to the objector. In spite of an opportunity of hearing being granted to the Petitioner, the Petitioner neither denied these documents nor offered any explanation to these documents.

13. Considering all these aspects, we are of the opinion, that the Scrutiny Committee firstly followed the principle of natural justice by giving equal opportunity of hearing to the parties, and secondly called upon the original documents for verification and

on verifying the documents, the Committee found that there is a visible difference in the lettering and ink in the words Kunbi which was a basic document in support of claim of the Petitioner and then rejected the same. The Committee, thus, committed no error in arriving at the conclusion.

14. Though learned Counsel appearing on behalf of Petitioner placed heavy reliance on the judgment of this Court in the matter of Soham Mandalik (supra), in our opinion, is of no help to the Petitioner.

15. In the matter of Soham Mandlik (supra), the Committee observed that certain documents are of pre-independence era were fabricated. In the said matter, the claim of the Petitioners was that they belong to Koli Mahadev category. The documents in support of claim of the Petitioner in respect of their grandfather were of pre-independence era. The Division Bench of this Court further observed that these documents were in respect of forefathers of the Petitioner and before treating these documents as fraudulent documents, no preliminary inquiry is conducted by the Scrutiny Committee. The Division Bench also observed that for

this so called fraudulent documents of the forefathers of the Petitioner which were of pre-independence era, the Petitioner cannot be held responsible. The Division Bench further observed that the findings recorded by the Committee were without their being any proof and only on the basis of conjecture and surmises.

Now, in the present matter, the documents are of post independence era. The original document was called upon by the Scrutiny Committee and an opportunity of hearing was given to the Petitioner. The Petitioner submitted no explanation in so far as this entry is concerned.

16. Considering all these facts, we are unable to accept the submissions of learned Counsel appearing on behalf of Petitioner. Thus, in our opinion, the Petition is devoid of any merits, deserved to be dismissed. Accordingly, Writ Petition is dismissed. Rule stands discharged.

(SHRIKANT D. KULKARNI, J.)

(PRASANNA B. VARALE, J.)