

BASAVRAJ
GURAPPA
PATIL

Digitally
signed by
BASAVRAJ
GURAPPA
PATIL
Date:
2022.08.19
10:55:27
+0530

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

WRIT PETITION NO. 5970 OF 2021

Suyash Hemant More

..... Petitioner

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. R. K. Mendadkar for the Petitioner

Mrs. P. N. Diwan, AGP for the State

Mr. Anuj Gaikar, Law Officer, CVC, Thane - present

**CORAM: S.V.GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 17, 2022

P.C.

1 Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2 The proposal was submitted for verification of the caste claim of the Petitioner as belonging to Koli Mahadev Scheduled Tribe. The certificate issued to the Petitioner has been cancelled keeping the merits open on the ground that the certificate is not issued by the Competent Authority.

3 The learned AGP placed reliance on the judgment of Full Bench in the case of *Rajendra Shivaram Vs. State of Maharashtra in*

2019 (4) BCC 847 to contend that the caste certificate issued by the Authority, not possessing jurisdiction, is invalid.

4 It is pointed out that the grandfather of the Petitioner is issued with the caste certificate by the Taluka Magistrate, Chalisgaon. Thereafter, the father of the Petitioner migrated to Ulhasnagar. He was issued with the caste certificate by the Executive Magistrate, Ulhasnagar on 5th February 1991. As such, the Petitioner is entitled for the caste certificate to be issued by the Executive Magistrate, Ulhasnagar. Reliance can be placed on Rule 5(2) of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012. In view of the said Rule, if the grandfather of the Petitioner is granted with the caste certificate by the Authority where he was originally residing at the time of presidential Notification and subsequently migrated, then the Competent Authority, where the person is presently migrated, can issue caste certificate. Though Rule 5(2) has been referred to by the Authority, the same has not been applied properly.

5 The impugned order is quashed and set aside.

6 The Committee shall verify the caste certificate of the

Petitioner on the basis of the certificate submitted by the Petitioner, on its own merits and in accordance with law.

7 The Petitioner shall appear before the Committee on 27th August 2022.

8 Considering the fact that the Petitioner is a student, the Committee shall endeavour to decide the proceedings expeditiously and if possible within four months from the date the Petitioner appears.

9 The result of the Petitioner shall not be withheld only on the ground that the Petitioner has not submitted the validity certificate. Of course, the degree certificate shall not be issued to the Petitioner unless the Petitioner produces the validity certificate.

10 Rule is accordingly made absolute.

11 The Writ Petition is disposed of. No costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)