

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.707 OF 2019

Digambar Chandrasha Koli ... Petitioner
Versus
State of Maharashtra & Anr. ... Respondents

....

Mr. Ashish Gaikwad, Advocate a/w. Ujwal Agandsurve, Rajendra Khaire,
for the Petitioner.

Mrs. R.M. Shinde, AGP for the Respondents-State.

....

CORAM : R. D. DHANUKA AND
M. G. SEWLIKAR, JJ.

DATE : 23rd JUNE, 2022

PC. :

1. Heard.
2. Rule. Learned A.G.P. waives service for the respondent No.1. Rule is made returnable forthwith.
3. This petition is filed under Article 227 of the Constitution of India seeking writ of certiorari for quashing and setting aside the impugned order dated 4.6.2003 passed by the respondent No.2 Committee rejecting the caste claim of the petitioner *exparte*.

4. Learned counsel for the petitioner invited our attention to the impugned order and in particular page No.25 of the petition and would submit that the petitioner was not residing at the place at which the notice of hearing was sought to be served by the Committee as the petitioner was working somewhere else.

5. Perusal of the impugned order indicates that the service of notices could not be effected upon the petitioner and was returned unserved on the ground that the petitioner had left to some other place or “not known”.

6. We are inclined to accept the statement of learned counsel for the petitioner that the petitioner was not staying at the address at which the Scrutiny Committee had attempted to serve him with the notice of the hearing and final decision; and an *exparte* order came to be passed by the respondent No.2.

7. Learned counsel for the petitioner undertakes that if the impugned order is quashed and set aside and the proceedings are restored, the petitioner would appear before the Scrutiny Committee and would not seek any unnecessary adjournments. The

petitioner also agrees to provide his current address to the respondent No.2 Committee within one week from today.

8. Since the impugned order is passed *exparte* and without giving appropriate opportunity to the petitioner to remain present, we quash and set aside the impugned order dated 4.6.2003 thereby invalidating the caste claim of the petitioner and restore the caste claim of the petitioner before the respondent No.2 Committee. The respondent No.2 Committee shall decide the caste claim of the petitioner afresh without being influenced by the observations made and the conclusions drawn in the impugned order. The petitioner is directed to remain present before the respondent No.2 Committee for hearing on 4th July, 2022 at 11.00 a.m.. The respondent No.2 Committee shall pass a fresh order within a period of four months from the date of the petitioner appearing before the respondent No.2 Committee. It is made clear that this Court has not expressed any views on the merits of the caste claim made by the petitioner. All contentions of the petitioner as well as the respondents on merits are kept open.

9. Rule is made absolute in aforesaid terms. Petition is disposed of. No order as to costs.

10. Parties to act upon the authenticated copy of this order.

(M. G. SEWLIKAR, J.)

(R. D. DHANUKA, J.)

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Deshmane (PS)

Digitally signed by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date: 2022.06.24 17:05:00
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