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

WRIT PETITION NO. 2742 OF 2023

Swapnil Baban Shinde
aged 29 years, resident of Shinde Wadi
Kasar Amboli, Tal. Mulshi,
Dist. Pune-412 115

... Petitioner

vs.

1. State of Maharashtra and Ors
through its Secretary, Social Justice
Department, Mantralaya, Mumbai-400 032
2. District Caste Certificate
Certificate Scrutiny Committee
Pune District, Pune through
its Member Secretary, having
its office at Jail Road, Commerce Zone
Behind IT Park, Yerwada
Dist. Pune-411 003
3. Collector, Pune
Dist. Pune
4. Tahsildar, Mulshi, Dist. Thane
5. Vinayak Sunil Raut
Resident of Kasar Amboli
Tal. Mulshi, Dist. Pune-412 115

... Respondents

Mr. R.K. Mendadkar along with Ms. Komal Gaikwad, for the
Petitioner.

Mr. Rajan S. Pawar, AGP, for Respondent Nos. 1 to 4-State.

Mr. T.D. Deshmukh, for Respondent No.5.

**CORAM : R. D. DHANUKA AND
GAURI GODSE, JJ.**

RESERVED ON: 09TH MARCH 2023

PRONOUNCED ON: 11TH APRIL 2023

JUDGMENT : (PER: GAURI GODSE J)

- 1) Rule. Learned AGP waives service for Respondent Nos. 1 to 4. Mr Deshmukh waives service for Respondent No. 5. Rule is made returnable forthwith. The petition is taken up for final disposal.
- 2) This Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, thereby quashing and setting aside the Order dated 7th February 2023 passed by District Caste Certificate Scrutiny Committee, Pune ("Respondent No.2"). By the impugned Order, the claim of the Petitioner of belonging to the "Kunbi" caste is disallowed, and the caste certificate issued to the Petitioner is declared invalid.
- 3) It is the Petitioner's case that he belongs to the 'Kunbi' caste, which is recognized as the Other Backward Class ("OBC") in the State of Maharashtra. Hence, he was issued a caste certificate on 18th December 2020 by the Sub-Divisional-Officer, Maval Mulshi sub-division, district Pune. Based on the caste certificate issued to the Petitioner, he had contested the election from Ward No. 4, Gram Panchayat Kasar Amboli, Taluka Mulshi, District Pune, which was reserved for OBC. Petitioner won the election and was elected as a member of

the Gram Panchayat. Respondent No. 5, who lost the said election, had filed a complaint before Respondent No.2. Respondent No.2 had initially validated the caste certificate issued to the Petitioner by Order dated 9th April 2021. The said Order of Respondent No.2 was challenged by Respondent No.5 in this Court by filing Writ Petition No. 2045 of 2021. The said Writ Petition was partly allowed on 14th February 2022, the Order passed by Respondent No.2 was set aside, and the matter was remanded back to Respondent No.2 by issuing certain directions. Following are the directions issued by this Court by Order dated 14th February 2022, at the time of remanding the matter back to Respondent No.2.

- “9.1. i. “ The impugned order dated 9th April 2021 of the Respondent No.2 - District Caste Certificate Scrutiny Committee, Pune District, Pune stands quashed and set aside;*
- ii. The Committee is directed to conduct a fresh vigilance inquiry in respect of the claim of the Petitioner about the origin of his cognate ancestors from Village Marunji as also the existence of the Petitioner’s immediate ancestors in village Kasar Amboli by following the due process of law;*
- iii. Copies of the Vigilance Report and any material that will be relied upon by the Committee shall be given to the Petitioner and/or his Advocate and Respondent No.3-Collector, Pune and/or Advocate for Respondent No.4 before hearing the parties;*

iv. The Petitioner's caste validity claim be decided afresh by the Committee after following the due process of law as contemplated by the provisions of the Caste Certificate Rules, 2012 within a period of four weeks from the date of uploading of this order;

v. The Committee shall pass a speaking order after hearing the parties and taking on record the written submissions, if any filed by the parties in accordance with law;

vi. Consequently, the order dated 16th July 2021 passed by the Respondent No.3-Collector, Pune also stands set aside;

vii. All contentions of the parties are kept open.”

- 4) After the order of remand passed by this Court, Respondent No.2 invalidated the caste certificate of the Petitioner by an Order that is impugned in the present Writ Petition. The learned Advocate appearing for the Petitioner submitted that the directions issued by this Court when remanding the matter back to Respondent No.2 are not at all considered while deciding the validity of the caste certificate of the Petitioner. The learned Advocate submitted that the Petitioner has placed on record various documents in relation to the birth extract from the paternal side of the Petitioner showing the caste as 'Kunbi'. It is, thus, the submission of the Petitioner that there were documents in support of the caste claim of the Petitioner that he belongs to the 'Kunbi' caste. Respondent No.2 has failed to consider the documents

produced by the Petitioner. It was further submitted that there were specific directions issued for conducting fresh vigilance inquiry regarding the caste claim of the Petitioner about the origin of his cognate ancestors from Village Marunji as also the existence of the Petitioner's immediate ancestors in village Kasar Amboli. Though this Court issued specific directions, the Vigilance Cell failed to perform its duty with respect to specific directions issued by the Order of remand passed by this Court.

- 5) The learned Advocate for the Petitioner submitted that after the Order of remand, three reports were called for from the Vigilance Cell. However, none of the reports is based on making any specific inquiry as directed by this Court in the remand Order. The Petitioner had filed a specific reply, thereby raising objections to the report of the Vigilance Cell. However, Respondent No.2 failed to consider the specific grounds of objections raised by the Petitioner. The learned Advocate, on behalf of the Petitioner, submitted that Respondent No.2 had only highlighted the version of the complainant and completely ignored the submissions made on behalf of the Petitioner. Thus, the learned Advocate, on behalf of the Petitioner, submitted that the documents on record supported the case of the Petitioner that he belongs to the 'Kunbi' caste and hence Respondent No.2 has committed a serious error in invalidating the claim of the Petitioner.
- 6) The learned AGP appearing on behalf of Respondent Nos.1 to 4, submitted that the documents relied upon by the Petitioner are not of the direct ancestor of the Petitioner. The

school leaving certificate of the Petitioner's father showed his caste as 'Maratha'. The learned AGP further submitted that the report submitted by the Vigilance Cell did not support the contention of the Petitioner with respect to the caste claim of the Petitioner as belonging to the 'Kunbi' caste. The learned AGP thus submitted that the Respondent No.2 Committee has, on examining the documents on record as well as the report of the Vigilance Cell, rightly rejected the caste claim of the Petitioner.

- 7) The learned Advocate for Respondent No.5 also supported the impugned Order on the ground that none of the documents relied upon by the Petitioner showed that the Petitioner belongs to the 'Kunbi' caste. He submitted that, in fact, the documents relied upon by the Petitioner in the name of his father clearly showed his caste as 'Maratha'.
- 8) We have considered the submissions made on behalf of the respective parties. The main grievance of the Petitioner is that the caste certificate issued to the Petitioner that he belongs to the 'Kunbi' caste ought not to have been invalidated by Respondent No.2 by ignoring the documents submitted by the Petitioner. The learned Advocate for the Petitioner was unable to show the direct relationship of the Petitioner to the persons in whose names the documents were issued showing them as belonging to the Kunbi caste. It is not in dispute that the school leaving certificate of the Petitioner's father shows his caste as 'Maratha'. It is also not in dispute that the school leaving certificate of the Petitioner shows his caste as "Hindu Maratha".

- 9) We have perused the record of the Writ Petition. On perusal of the impugned Order, we find that the Petitioner's caste claim that he belongs to the 'Kunbi' caste is based on the documents issued to his alleged relatives showing that they belong to the 'Kunbi' caste. However, these documents are of no relevance without the Petitioner establishing any direct relationship with the persons in whose name those documents have been issued. The finding in the impugned Order indicates that the Petitioner could not prove the genealogy relied upon by him to prove the relationship. The documents in the name of the Petitioner's father clearly show the caste as 'Maratha'. The learned Advocate for the Petitioner was unable to explain the reason for the issuance of a school leaving certificate in the name of the Petitioner's father showing as belonging to 'Maratha' and the school leaving certificate in the name of the Petitioner as belonging to "Hindu-Maratha," and not 'Kunbi' as claimed by the Petitioner.
- 10) This Court, by Order of remand, had directed Respondent No. 2 to conduct a fresh vigilance inquiry in respect of the claim of the Petitioner about the origin of his cognate ancestors from Village Marunji as also the existence of the Petitioner's immediate ancestors in village Kasar Amboli by following the due process of law. Respondent No. 2 did not accept the first two reports of the Vigilance Cell on the ground that the same were not prepared by following the directions issued by this Court in the Order of remand. Respondent No. 2, only after being satisfied with the inquiry made by the Vigilance Cell, accepted the third report submitted on 29th August 2022. On

receipt of the report of the vigilance cell Respondent No. 2, by issuing a show cause notice, called upon the Petitioner to submit his written reply.

- 11) Respondent No.2, after examining the report submitted by the Vigilance Cell on making a necessary inquiry, has concluded that the report of the Vigilance Cell also does not support the caste claim of the Petitioner. Respondent No. 2 held that the inquiry report shows that the Petitioner was an original resident of Kasar Amboli. Respondent No. 2 also held that the inquiry report shows that the documents relied upon by the Petitioner from the Tehsil record of Mulshi were not found in village form no. 14 of village Kasar Amboli, Nande and Marunji. Respondent No. 2 has also considered that the school leaving certificate of the Petitioner's father does not show the caste as 'Kunbi'. Thus, Respondent No.2 has disbelieved the Petitioner's case that he belongs to the 'Kunbi' caste.
- 12) Respondent No.2, after examining the documents on record and the three reports submitted by the Vigilance Cell on making necessary inquiries, has disbelieved the case of the Petitioner. There is no illegality or perversity in the findings recorded by Respondent No. 2. Thus, for want of any proof in support of the caste claim of the Petitioner, we do not find any reason to interfere with the impugned Order.
- 13) The learned Advocate for the Petitioner has relied upon the following decisions of this Court in respect of his submission that Respondent No.2 failed to take into

consideration the specific documents produced by the Petitioner in respect of his caste claim:

i. Swapnil Baban Shinde v State of Maharashtra and Ors¹.

ii. Ashvini Ramchandra Bhogam v State of Maharashtra and Ors².

iii. Apoorva d/o Vinay Nichale v Divisional Caste

Certificate Scrutiny Committee No.1 and Ors.³ .

- 14) The first decision relied upon by the Petitioner is the Order of remand passed by this Court. This Court had referred to a translation of record in Modi script of the years 1918, and 1927 of village Marunji relied upon by the Petitioner in support of his case that those documents were of his cognate ancestors showing their caste as “Kunbi”. Hence, this Court had directed Respondent No. 2 to conduct a fresh inquiry into Petitioner’s claim of his origin through his cognate ancestors from village Marunji and immediate ancestors in village Kasar Amboli. A perusal of the impugned Order shows that Respondent No. 2 discarded the first two vigilance report as they were not in conformity with the directions issued by this Court in the Order of remand. However, Respondent No. 2 relied upon only the third report after being satisfied that the Vigilance Cell had followed the directions issued by this Court. Thus, by relying upon the third report of the Vigilance Cell, Respondent No. 2 has held that the Petitioner was not

1 *Writ Petition No. 2045/2021*

2 *2017(2) Mh.L.J.*

3 *2010(6) Mh.L.J*

able to prove the genealogy relied upon by him.

- 15) The second decision relied upon by the Petitioner in the case of ***Ashvini Bhogam*** holds that the detailed procedure provided by 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, clearly demonstrate that the Vigilance Cell inquiry is not a mere formality but is meant to effectively assist the Committee in determining the caste claim. This Court further held that this is further substantiated by the requirement of the Rules for the Committee to give reasons before discarding the Vigilance Cell report. In the facts of the said case, the Caste Certificate Scrutiny Committee had discarded the report of the Vigilance Cell, which was in support of the caste claim. In the present case, Respondent No. 2 (Committee) had discarded the first two reports on the ground that the same were not in accordance with the directions issued by this Court in the Order of remand. In the earlier paragraphs, we have already reproduced the directions issued by this Court in the Order of remand. We have also referred to the reasons recorded by Respondent No. 2 for disbelieving the caste claim of the Petitioner by examining the evidence on record. Thus, this decision is of no assistance to the facts of the present case.
- 16) The third decision relied upon by the Petitioner in the case of ***Apoorva Nichale*** is regarding a caste claim of the Petitioner in that case by relying upon a caste validity certificate in the name of her sister. This Court, in the facts of that case, held

that a merely different view on the same facts would not entitle the Committee dealing with the subsequent caste claim to reject it unless the Committee is of the view that the earlier certificate is obtained by fraud. This decision is of no assistance to the submissions of the Petitioner in view of the different facts of the present case.

- 17) On perusal of the findings recorded by Respondent No.2 on the basis of the report submitted by the Vigilance Cell and examination of the evidence on record, we do not find any illegality or perversity in the reasoning recorded by Respondent No.2 in rejecting the caste claim of the Petitioner.
- 18) There is no merit in the submissions made on behalf of the Petitioner. Hence, the Petition is dismissed. Rule is discharged. There will be no order as to costs.

(GAURI GODSE, J.)

(R. D. DHANUKA, J.)