

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1791 OF 2020

Annasaheb Basappa Yalazare

...Petitioner

Versus

State Of Maharashtra through its Secretary
Social Justice Department And Ors.

...Respondents

.....

Mr. R.K. Mendadkar, Advocate for Petitioner.

Mr. M.M. Pabale, AGP for Respondent Nos. 1, 2, 4 5 & 6.

.....

**CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 9 JANUARY 2024

P.C.:

. Heard learned counsel for the parties. Taken up for disposal.

2. The Petitioner has challenged the order passed by Respondent No. 2 - District Caste Certificate Scrutiny Committee, Sangli (for short "Scrutiny Committee"), invalidating the caste certificate issued to the Petitioner by the Executive Magistrate, Miraj dated 12 July 1995 as Lingader (Scheduled Caste).

3. The Petitioner was employed in the Respondent No. 3 Educational Institute as an Instructor in Banking and thereafter, as a Teacher. Since he was appointed under the reserved category, caste certificate was sent for verification. The Scrutiny Committee as per

provision of Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (in short “the said Act”) called for report from the Police Vigilance Cell (for short “Vigilance Cell”). The Vigilance Cell report dated 23 August 2019 was submitted. The petitioner was given a copy of the same. The Petitioner submitted documents in support of his claim as belonging to Lingader caste.

4. The Scrutiny Committee after considering the evidence on record came to the conclusion that the documents produced by the Petitioner cannot be considered as evidence for demonstrating that the Petitioner belonged to Lingader caste as no documents prior to 1950 (pre-constitutional period) having entry of Lingader, were produced on record. The Scrutiny Committee opined that the documents indicate the caste as Hindu Lingader.

5. The grievance of the Petitioner, which we find justified, is that there is no reference in the impugned order to the report of the Vigilance Cell which is in favour of the Petitioner. Under the said Act, Rules have been framed setting out methodology for verification of the caste claim. One of the important steps in the verification process is calling for the report from the Police Vigilance Cell. The report is prepared after visiting the original residence of the claimant and making a field inquiry and also collecting documents and the

same is placed on record. Though it is correct, that the report of the Vigilance Cell is not binding on the Scrutiny Committee and the Scrutiny Committee can take a different view, it cannot be said that the report is a meaningless document which can be altogether removed from consideration. If that be so, there would not have been a stipulation for holding a local inquiry and calling for a report. In the present case, the vigilance report supports the case of the Petitioner's claim as belonging to Lingader (Scheduled Caste).

6. We have gone through the impugned order. There is a reference of the report of the Vigilance Cell and that is given to the Petitioner. That Vigilance Cell report is given to the Petitioner was one of the requirement but, since it is in favour of the Petitioner the Scrutiny Committee should have at least looked into and referred to the report and thereafter proceeded to finally conclude the issue.

7. Since the Vigilance Cell report is mandated under the Rules and it has been completely omitted from consideration, we have no option left but to set aside the impugned order and remand the proceedings to the Respondent Committee to examine the Vigilance Cell report and thereafter pass the final order.

8. Accordingly, the impugned order dated 14 January 2020 is quashed and set aside. The caste claim of the Petitioner stands restored to the file of Respondent - Scrutiny Committee. The Petitioner will appear before the Scrutiny Committee on 26 February 2024. Thereupon, the Respondent - Scrutiny Committee will set a

time table for disposal of the Petitioner's caste claim. Considering the fact that the petitioner's pensionary benefits are not released, it is open to the Petitioner to make request to the Scrutiny Committee for early disposal of the Petitioner's caste claim, especially when the remand is necessitated because of the omission of the Scrutiny Committee.

9. As regards the provisional pension, it is open to the Petitioner to make appropriate request to the concerned Respondent who will consider the same after receiving it.

10. We make it clear that even though we have remanded the proceedings, we have not recalled interim direction dated 28 September 2022 regarding release of provident fund and if the same is released, it will be subject to further orders that would be passed in pending proceedings.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)