

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5706 OF 2024

Gopal Shrishail Kumbar

...Petitioner

Versus

The District Caste Scrutiny Committee
Sangli And Anr.

...Respondents

Mr. A.Y. Sakhare, Senior Advocate a/w Balasaheb Ligade for the
Petitioner.

Ms. Nisha Mehra, AGP for the Respondent/State.

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

DATE : 22 APRIL 2024

P.C. :

. Heard the learned counsel for the parties.

2. By the impugned order, the Respondent No.1 - District Caste Scrutiny Committee, Sangli has invalidated the caste certificate issued to the Petitioner on 7 January 2017 by the Competent Authority, Jat District-Sangli as belonging to Kumbhar (Other Backward Class).

3. The caste certificate of the Petitioner was sent for verification to Respondent No.1 Scrutiny Committee as the Petitioner was

contesting election from reserved category. The Petitioner produced certain documents. Vigilance Cell Inquiry was conducted and the record was placed before the scrutiny committee. The Scrutiny Committee noted that since it was after 30 October 1967 that the benefits for other backward classes were made available, this date would be considered relevant for assessing the evidentiary value of the record. The Scrutiny committee thereafter examined the school records and found that there were erasures in the school record. Proceeding on this basis and relying on certain judicial pronouncements and position of law, the Scrutiny Committee concluded that the Petitioner has committed a fraud and invalidated the caste certificate by the impugned order.

4. Under 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, a procedure for examining the validity of caste certificate is laid down. The Applicant has to produce the documents which the Applicant relies on along with an affidavit and form is provided under the said Rules. Once such documents are placed along with all listed documents on affidavit with an undertaking, then these documents are examined by the Scrutiny Committee. This procedure is necessary to obviate any debate as to whether the Applicant has placed documents on record before the Committee or not.

5. In the present case, the Petitioner has annexed the application in the format referring to documents on which the Petitioner had relied upon. The application was addressed by placing an endorsement. The Petitioner had relied upon the validity certificate of the Petitioner's paternal uncle and paternal nephew namely Chandrakant B. Kumbhar and Nagesh Mahadeo Kumbhar. In the entire discussion, by which the Scrutiny Committee has invalidated the certificate, these documents are completely omitted from consideration. Only proceeding on the basis that there is an correction/erasure, the Scrutiny Committee has cancelled the caste certificate of the Petitioner. The validity certificate issued in favour of Chandrakant Kumbhar and Nagesh Kumbhar were issued by the Scrutiny Committee itself and there is no reason given why they should be kept out of consideration. There is no reference whether any vigilance Cell Inquiry was carried out when their validity certificate were issued. It is not stated whether the same record, which the Scrutiny Committee now finds objectionable, was considered while issuing validity certificate to the Petitioner's uncle and nephew. It may not be an absolute position of law that the moment a validity certificate of paternal relations is placed before the Scrutiny Committee, it is divested of all its powers and must issue a validity certificate. But certificate of validity issued in favour of near paternal relatives would have value and they cannot be omitted from consideration in this fashion and will have to be dealt with, with reasons only.

6. Completely omitting validity certificate in favour of the Petitioner's near paternal relatives from consideration has vitiated the findings recorded by the Scrutiny Committee as it has failed to consider relevant evidence. In these circumstances, the impugned order will have to be set aside and the claim of the Petitioner will have to be restored to the Scrutiny Committee for reconsideration.

7. Accordingly, the impugned order dated 26 March 2024 passed by the Respondent No.1 Committee is quashed and set aside. The caste claim of the Petitioner stands restored to the file of the Committee. The Petitioner will appear before the Scrutiny Committee on 3 May 2024. Thereafter the Scrutiny Committee will take the proceedings on priority basis being election matter and pass a final order dealing with the above mentioned aspects by 31 May 2024.

8. Writ Petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)