



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4219 OF 2016

Rajadatta Sidram Rasolgikar

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

...

Adv. Shushant Yaramwar a/w Sahil Choudhari for the Petitioner.

Adv. O. A. Chandurkar a/w Addl. GP Abhijeet Naik for Respondent
Nos. 1 & 2.

Adv. Priyala Sarda a/w Seema S. Dighe for Respondent No.3.

...

**CORAM : NITIN W. SAMBRE &
ASHWIN D. BHOBE, JJ.**

DATE : 23rd JANUARY, 2025

P. C. :-

1. Heard.

2. The Petitioner is claiming to be belonging to Koli
Mahadev Scheduled Tribe.

3. The committee in earlier round, has rejected the claim
for issuance of validity certificate vide order dated 22.04.2002.

4. It appears that after the aforesaid order which the

Petitioner is claiming to be not served on him, applied for issuance of fresh caste certificate. The said caste certificate was subject matter of scrutiny before the Respondent Committee and the order of invalidation in the second round has attained finality in the Writ Petition No. 11302 of 2015 decided on 21.03.2016.

5. While the aforesaid Writ Petition No.11302 of 2015 was decided by this Court, the Petitioner claiming that he was granted liberty to question the earlier invalidation order dated 22.04.2002 has preferred this Petition.

6. Amongst other grounds canvassed are that the order of invalidation dated 22.04.2002 was never served on the Petitioner and as such, the limitation in the matter of questioning the said order will commence from the disposal of the earlier Writ Petition No. 11302 of 2015 decided on 21.03.2016.

7. In addition to above, it is claimed that the cousin brother of the Petitioner namely Sanjay Basappa Koli was granted validity after the order of remand passed on 24.10.2022 in Writ Petition No.6150 of 2002. As such, it is claimed that since the cousin brother of the Petitioner namely Sanjay Basappa Koli was granted validity certificate based on the entries in the primary

school document of his father based on the Division Bench judgment of this Court in the case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401]*, the Petitioner is entitled for the benefit of issuance of validity certificate.

8. The Assistant Government Pleader, counsel for the Respondent has invited our attention to the affidavit duly sworn by the Petitioner which was produced before the committee and also before this Court denying the relationship of the Petitioner with that of Sanjay. As such, it is claimed that the Petitioner is trying to blow hot and cold at the same time as initially, the Petitioner denied relationship with said Sanjay however, since he is holding a validity certificate, the Petitioner is trying to claim that he is the blood relative of Sanjay. As such, it is claimed that the Petition is liable to be dismissed.

9. We have considered the rival claims in the Petition. The fact about the Petitioner's Writ Petition No. 11302 of 2015 was dismissed on 21.03.2016 wherein, the order invalidating the second caste certificate obtained by the Petitioner is part of record.

10. While granting liberty to the Petitioner to question the order dated 22.04.2002 passed by the committee, the liberty was granted by this Court reads thus :

“2. Needless to mention that the Petitioner can challenge the earlier order rejecting his caste claim by adopting appropriate remedy as may be permissible. In the event said rejection is challenged by adopting the appropriate remedies, the same shall be considered independently on its own merits.”

11. It is pursuant to this liberty, the Petitioner is before this Court. The counsel for the Petitioner has claimed that the impugned order dated 22.04.2002 was never served on him and has claimed that the said fact was within the knowledge of the Court while dealing with the identical issue in Writ Petition No.11302 of 2015 decided on 21.03.2016, the liberty was granted.

12. As far as the aforesaid contentions are concerned, no doubt, the Court has granted the liberty to the Petitioner however, the least that was expected of the Petitioner was to ascertain that the order dated 22.04.2002 was never served by the Respondent committee and in such an eventuality, it was open for him to question the very same order in the aforesaid Writ Petition No. 11302 of 2015.

13. The fact remains that the Petitioner has not produced before us the copy of Writ Petition No. 11302 of 2015, so as to find out as about his stand about making available the order dated 22.04.2002, which is impugned in the present Petition.

14. Apart from above, even, if it is accepted that the cousin brother of the Petitioner namely Sanjay Basappa Koli was granted Validity Certificate after the order of remand passed by this Court on 24.10.2002, the Petitioner himself has denied relations with the said brother as could be inferred from the document at page No. 31 which is an affidavit duly sworn by the Petitioner submitted before the committee. The said affidavit dated 23.03.2010 in categorical terms, denies the relationship with the said validity holder namely Sanjay Basappa Koli.

15. In the aforesaid background we uphold the objection raised by the learned Assistant Government Pleader.

16. In this view of the matter, and having regard to the provisions of Section 8 of the Act of 2000 which contemplates the Petitioner to discharge the burden and in view of the provisions of Rule 2(f) read with Rule 11(d), we are of the view that the Petitioner having denied relationship with the validity holder,

cannot seek the benefit of parity based on the *Apoorva Nichale's* judgment delivered by this Court that being so, no case for grant of relief is made out. As such, the Petition stands dismissed.

17. However, we are informed that at this stage, the counsel for the Petitioner has invited our attention to the order of absorption of services of the Petitioner on superannuated post. According to him, the issue is sub judice before the Division Bench at Aurangabad Bench and as such, the clarification be issued that the present order shall not come in the way of the Petitioner in canvassing the claim for absorption of his services on the superannuated post.

18. We need to clarify that this Court has not gone into the issue about the protection of service of the Petitioner as the said issue is sub judice before the Division Bench at Aurangabad.

(ASHWIN D. BHOBE, J.)

(NITIN W. SAMBRE, J.)