
(2014) 04 BOM CK 0064
In the Bombay High Court
Case No : W.P. No. 8802 of 2013

Akshaykumar Harinarayan Chaurasiya	APPELLANT
Vs	
State of Maharashtra	RESPONDENT

Date of Decision : 17-04-2014

Acts Referred:

Citation : (2015) 3 ALLMR 676 : (2015) 1 BomCR 336 : (2014) 4 MhLj 49

Hon'ble Judges : M.S. Sonak, J;Anoop V. Mohta, J

Bench : Division Bench

Advocate : R.K. Mendadkar and Helen Koli-Mandlik, Advocate for the Appellant;
S.S. Bhende, AGP, Advocate for the Respondent

Judgement

Anoop V. Mohta, J.—Rule, returnable forthwith. Learned counsel for respondent-State waives service.

Heard finally, by consent of the parties.

The present Petition is filed by the petitioner, as his caste i.e. "Tamboli" certificate is invalidated by the impugned order.

2. After going through the impugned order, we are inclined to dispose of the present Writ Petition with a direction to respondent No. 2-Scrutiny Committee to consider every aspect in detail and pass fresh order specifically for the reason that petitioner's sister got the caste certificate "Tamboli" by order dated 18-4-2013 passed by the Caste Scrutiny Committee, but the petitioner's caste certificate is invalidated though he is claiming the certificate of same nature.

3. Government Circular dated 29 January, 1983 which deals with the caste of "Tamboli" has been totally overlooked. The Government Circular dated 29-1-1983 reflects as under:

The list of Other Backward Classes is on caste basis. Persons professing religion other than Hindu and Sikh cannot, therefore, be considered as belonging to Other Backward Classes. However, following communities professing Muslim

religion are included in the list of Other Backward Classes (i) Julaha, (ii) Ladcal, (iii) Pinjara, (iv) Momin, (v) Fakir Bandarwala and (vi) Tamboli.

4. Therefore, it is necessary for the Caste Scrutiny Committee to consider the caste claim of the petitioner afresh in view of above two basic documents on record which, in our view, goes to the root of the matter and supports the case of the petitioner in every aspect.

5. This Court in Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1, The Director, Medical Education and Research, Govt. of Maharashtra, CET Cell, The Dean, Govt. Medical College and Hospital and The Registrar, Maharashtra University of Health Sciences, already directed the Scrutiny Committee to grant the certificate in view of caste certificate of close relations. Respondent No. 2-Scrutiny Committee need to consider the same and grant the certificate in view of above.

6. This Court by orders dated 23 September, 2013 and 23 October, 2013 granted the protection. The petitioner, based upon that order, has been pursuing his study. Therefore, we are inclined to observe that the interim order passed in this matter to continue till the decision and four weeks thereafter if the adverse order is passed against the petitioner. In the result the following order:

ORDER

a) Impugned order of Scrutiny Committee dated 17 July, 2013, is quashed and set aside.

b) The matter is remanded back to the Scrutiny Committee, for reconsideration.

c) The Scrutiny Committee to reconsider every aspect, by giving an opportunity to all the parties.

d) The liberty is granted to the petitioner/parties to apply before the Scrutiny Committee for filing additional evidence, oral as well as, documentary material.

e) The petitioner/parties to appear before the concerned Scrutiny Committee, on 9 May, 2014. Thereafter, the Committee to fix the date and schedule of hearing accordingly with an endeavour to dispose of the matter as early as possible and preferably within six months from the date of receipt of Judgment/Order.

f) In case, Scrutiny Committee passes an adverse order against the petitioner/Claimant, the same should not be given effect to and/or acted upon for four weeks thereafter from the date of communication of the order.

g) Rule made absolute in the above terms.

h) All the parties to co-operate.

i) There shall be no order as to costs.

j) The interim protection, if any, granted by this Court in Writ Petition/Civil

Application to continue until the decision and four weeks thereafter. No question of claiming any equities.

k) The parties to act upon the authenticated copy of this Judgment/order.