

(2011) 12 SC CK 0034

In the Supreme Court Of India

Case No : Civil Appeal No. 10740 of 2011 (Arising out of Special Leave Petition (Civil) No. 29584 of 2009)

Omprakash

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Constitution of India, 1950 — Article 15
Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of

Citation : AIR 2012 SC 885 : (2012) AIRSCW 585 : (2012) 3 BomCR 159 : (2012) 132 FLR 901 : (2011) 14 JT 99 : (2012) 3 MhLj 753 : (2011) 13 SCALE 449 : (2012) 1 SCC 551

Hon'ble Judges : P. Sathasivam, J; J. Chelameswar, J

Bench : Division Bench

Advocate : R.R. Deshpande, Ujwala R. Deshpande, Sudhanshu S. Choudhari, Sanjay V. Kharde, Sachin J. Patil, Asha Gopalan Nair and Nishant Ramakantrao Katneshwarkar, for the Appellant;

Final Decision : Allowed

Judgement

1. Chelameswar, J.—Leave granted.

2. The State of Maharashtra made a law known as "Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste) Certificate Act, 2000". u/s 3 of the said Act it is stipulated that any person belonging to the scheduled caste or scheduled tribes etc, is required to produce a "caste certificate" in order to claim benefit of reservation either for the purpose of public employment or admission to educational institutions or for contesting elections in any local authority etc. and such a certificate is to be obtained by applying to the "Competent Authority".

(3) Application for a Caste Certificate: Any person belonging to any of the

Scheduled Castes, Scheduled Tribes, De-Notified tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category, required to produce a Caste Certificate in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either in any public employment or for admission into any educational institution, or any other benefit under any special provisions made under Clause (4) of Article 15 of the Constitution of India or for the purpose of contesting for elective post in any local authority or in the co-operative societies; or for purchase or transfer of land from a tribal land holder or any other purposes specified by the Government, shall apply in such form and in such manner as may be prescribed, to the Competent Authority for the issue of a Caste Certificate.

3. Section 4 stipulates that the "Competent Authority" on being satisfied by the genuineness of the claim of the applicant shall issue a caste certificate.

4. Section 6 of the said Act contemplates the constitution of one or more Scrutiny Committees by the State Government for the verification of the correctness of any caste certificate issued by the Competent Authority. Sub-section (2) thereof stipulates that any person, who obtains a caste certificate from the "Competent Authority" is required to make an application for issuance of the validity certificate. Section 6 in so far as (1-IV) relevant for the present purpose reads as follows.

(6) Verification of Caste Certificate by Scrutiny Committee. (1) The Government shall constitute by notification in the Official Gazette, one or more Scrutiny Committee (s) for verification of Caste Certificates issued by the Competent Authorities under Sub-section (1) of Section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committee or Committees.

(2) After obtaining the Caste Certificate from the Competent Authorities, any person desirous of availing of the benefits or concessions provided to the Scheduled castes, Scheduled Tribes, De- Notified tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category for the purposes mentioned in Section 3 may make an application, well in time in such form and in such manner as may be prescribed, to the concerned Scrutiny Committee, for the verification of such Caste Certificate and issue of a validity certificate.

5. It appears from the exhibit P-8 that under the provisions of the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961, the candidate elected from a reserved constituency is required to present the caste certificate before the Scrutiny Committee for verification.

6. The "caste certificate" of the Appellant is in issue in the instant appeal. The Appellant claims that he belongs to a community known as "Kathik" which admittedly is recognised as scheduled tribe in the State of Maharashtra. He contested and was elected as a member of Zilla Parishad from the Ambulga constituency reserved for the scheduled tribes against the fifth Respondent.

7. The Appellant submitted his caste certificate before the above mentioned Committee for scrutiny.

8. By Order dated 4.6.2007, the Committee (fifth Respondent), accepted the claim of the Appellant.

9. Aggrieved by the said decision, the fifth Respondent had earlier approached the Bombay High Court by way of a Writ Petition No. 7026 of 2007. By the judgment dated 7th August, 2008, the said writ petition was allowed and the matter remitted back to the fifth Respondent. The fifth Respondent by a fresh Order dated 26th November, 2008, recorded that the claim of the Appellant could not be sustained. Therefore, the Appellant herein had earlier approached the Bombay High Court by writ petition No. 7436 of 2008 which was allowed by the judgment dated 17th January, 2009 on the ground that the fifth Respondent did not comply with the requirement of the Principles of Natural Justice and once again remitted the matter back with the appropriate directions.

10. On such remand, the fifth Respondent once again, after an appropriate enquiry, passed an order dated 25.2.2009 invalidating the caste certificate and recommended to the Regional Commissioner, Aurangabad to set aside the election of the Appellant herein to the Zilla Parishad.

11. Challenging the above-mentioned decision, the Appellant herein once again approached the Bombay High Court, by way of writ petition No. 1633 of 2009, which stood dismissed. Hence, the special leave petition.

12. A very vehement attempt is made by the learned Counsel appearing for the Appellant inviting the attention of this Court to the various documents in a bid to invite a conclusion on facts contrary to the one reached by the Bombay High Court. They are:

(i) an unregistered Sale Deed said to have been executed by the father of the Appellant herein approximately in 1941 wherein the father of the Appellant is described as person belonging to ""Khatik" caste.

(ii) a certificate allegedly issued by the "Scrutiny Committee" in favour of an alleged nephew of the Appellant, who is shown in the certificate to be a person belonging to the "Khatik" community.

(iii) a register of the school where the Appellant studied where conflicting entries were made regarding the caste status of the Appellant. Initially the Appellant was shown as a person belonging to the "Khatik" community and later as a person belonging to "Kalal" community.

13. The "Scrutiny Committee" declined to place any reliance on such documents for arriving at a conclusion in favour of the Appellant. The High Court recorded very cogent reasons for refusing to interfere with the conclusions raised by the "Scrutiny Committee".

14. The High court held that the authenticity of the first of the above-mentioned

documents is not established. Coming to the second of the above-document, it was held that there is no material on record to establish the actual relationship between the Appellant and the alleged nephew of the Appellant. In so far as the third of the abovementioned document is concerned, the High Court opined that though there are conflicting entries in the record of the school service book of the Appellant, the Appellant never took care to get the record corrected and he accepted the entry that he belong to the "Kalal" community without questioning the same.

15. All that the Appellant is asking us in the instant appeal is to make a third guess on facts. The evidence produced by the Appellant was examined by the "Scrutiny Committee" and the examination was quite elaborate. The legality of the conclusions reached by the "Scrutiny Committee" was examined by the Division Bench of the Bombay High Court and by the judgment under appeal it was held that the said conclusions did not warrant any interference.

16. No legal principle, which warrants interference with the conclusion reached by the High Court, is brought to our notice. The appeal is, therefore, dismissed.