

(2014) 09 BOM CK 0080

In the Bombay High Court

Case No : Writ Petition No. 4224 of 2014

Pranav Prakash Mandlik

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 17-09-2014

Acts Referred:

Citation : (2015) 1 ALLMR 177 : (2014) 6 BomCR 200 : (2014) 6 MhLj 449

Hon'ble Judges : F.M. Reis, J;Anoop V. Mohta, J

Bench : Division Bench

Advocate : R.K. Mendadkar, Advocate for the Appellant; A.I. Patel, AGP,
Advocate for the Respondent

Final Decision : Allowed

Judgement

Anoop V. Mohta, J.—Rule, returnable forthwith. Heard finally by consent of the parties.

2. The Petitioner has challenged order dated 6.2.2014 passed by Respondent No.2 -Scheduled Tribe Certificate Scrutiny Committee (Scrutiny Committee), thereby invalidating the caste certificate of the Petitioner who belongs to "Koli Mahadeo Scheduled Tribe" mainly on the ground that the Tribe Koli Mahadeo is not found in Dhule District as per Scheduled Caste/Scheduled Tribe Orders (Amendment) Act, 1976. On 27.11.1995 the Competent Appellate Authority has granted caste certificate to the Petitioner and to his brother. Through college, his case for validity of certificate was forwarded on 27.11.2007 along with documents. The Petitioner got admission under reserved category in the year 2009-10. The Petitioner is studying in 3rd and final year of Degree course in Catering and Hotel Management. During this period, the Vigilance Cell recorded statement of father of the Petitioner on 21.08.2008, apart from deposition towards traditional occupation, social cultural traits, dialect etc, pointed out the certificate of validity to himself and to his brother. It is also pointed out other close family members having such valid caste certificate. The Petitioner, therefore, reiterated again and again that his father, two blood uncles and his

real elder brother have been granted certificate of validity by Respondent No.2-Scrutiny Committee and the Scrutiny Committee of Nasik, therefore, prayed for the similar issuance of certificate of validity. Respondent No.2 - Scrutiny Committee, however, by the impugned order, invalidated the caste certificate of the Petitioner by overlooking the judgment cited of Hon"ble Supreme Court, as well as, High Court.

3. The apex Court in *Ayaaubkhan Noorkhan Pathan Vs. The State of Maharashtra and Others*, referring to earlier Supreme Court judgments has recorded as under, as there is no case of any fraud and/or misrepresentation by the Petitioner while claiming the caste certificate and/or also validation of it.

"39 The correctness of the said judgment in *Madhuri Patil (1994) 6SCC 241* was doubted, and the matter was referred to and decided by a larger Bench of this Court in *Dayaram Vs. Sudhir Batham and Others*, wherein, while deciding the various issues involved, including the competence of this Court to legislate in this regard, it was held as under : [*Dayaram case, SCC pp. 353-54, paras 35-36*]

35. The Scrutiny Committee is not an adjudicating authority like a court or tribunal, but an administrative body which verifies the facts, investigates into a specific claim (of caste status) and ascertains whether the caste/tribal status claimed is correct or not ..

36. ... If there were to be a legislation governing or regulating grant of caste certificates, and if caste certificates are issued after due and proper inquiry, such caste certificates will not call for verification by the Scrutiny Committees. *Madhuri Patil.*"

4 In Writ Petition No.3110-2002 *Ravi Janardhan Chalmela v. State of Maharashtra and ors*, a Division Bench of this Court of which Anoop V. Mohta, J. was also a member, decided on 21.08.2014, in a situation where other family members already got validation to the caste certificate has observed as under:

"16. This Court, apart from other Judgments, in *Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1, The Director, Median Education and Research, Govt. of Maharashtra, CET Cell, The Dean, Govt. Medical College and Hospital and The Registrar, Maharashtra University of Health Sciences*, after considering even the earlier Judgments and such submissions and as no case of fraud and/or misrepresentation was made out, granted the caste validity certificate based upon the relatives certificate. In *Abhishek Deepak Singh Vs. State of Maharashtra and Ors.* (Writ Petition No. 8884 of 2009), this Court, on 23 October 2013, also directed to issue caste validity certificate in the similar circumstances. Another recent Judgment of this Court is *Madhuri Nitin Jadhav Vs. State of Maharashtra*, in respect of the certificates already issued to the relatives and directed to issue a Caste Validity Certificate to the claimant in that case.

17. There are other Judgments also to support the same viz. *Vaishali Chatarsing Ingale (Thakur) Vs. The Committee for Scrutiny and Verification of Tribe Claims*,

State of Maharashtra and Zilla Parishad, and Sanjay Pralhad Pardeshi Vs. State of Maharashtra,

5. Therefore, in view of above undisputed position on record, we are inclined to allow the Writ Petition in the following terms:

(i) Impugned Order dated 6.2.2014 passed by Respondent No.2 -Scrutiny Committee is quashed and set aside.

(ii) The Writ Petition is allowed in terms of prayer (a) which reads thus:

(a) This Hon"ble Court be pleased to issue Writ of Certiorari and or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned judgment and order dated 6-2-2014 passed by Respondent No.2 committee with further direction to Respondent No.2 Committee to issue certificate of validity in respect of caste certificate dated 27-11-1995 issued by the competent authority of jurisdiction.

(iii) Caste Validity Certificate be issued within two weeks from the date of receipt of copy of this order.

(iv) Rule is made absolute accordingly.

(v) There shall be no order as to costs.

(vi) Parties to act on the basis of an authenticated copy of this order.