

(2023) 07 BOM CK 0021
In the Bombay High Court
Case No : Writ Petition No.12713 Of 2022

Pranav Sadashiv Lad

APPELLANT

Vs

Caste Certificate Scrutiny Committee, Kolhapur And Others

RESPONDENT

Date of Decision : 11-07-2023

Acts Referred:

Citation : (2023) 07 BOM CK 0021

Hon'ble Judges : Sunil B. Shukre, J;Rajesh S. Patil, J

Bench : Division Bench

Advocate : Arjun Kadam, R.M. Shinde

Final Decision : Dismissed

Judgement

Sunil B. Shukre, J

1. RULE. Rule is made returnable forthwith. Heard finally, by consent of learned counsel for the petitioner and learned AGP for the respondents-State of Maharashtra.

2. The petitioner is questioning the validity granted in his favour by the Scrutiny Committee on 11th February 2022 to the effect that petitioner belongs to "Maratha" caste.

3. It is the grievance of the petitioner that due to some subsequent events, the knowledge which was obtained by the petitioner on a later date, it was revealed to the petitioner that his real caste was not "Maratha" but "Kunbi". The learned counsel for the petitioner submits that even the real sister of the petitioner was granted validity certificate by the Kolhapur Scrutiny Committee that she belongs to "Kunbi" caste, on 22nd September 2022. The learned counsel for the petitioner submits that on 26th August 2022, the petitioner had submitted a review application, requesting for recall of the order of validity dated 11th February 2020 on the ground that he had come across certain documents, which disclosed his real caste to be "Kunbi" and not "Maratha". Learned counsel for the

petitioner submits that this review application was rejected by the Scrutiny Committee by the order passed on 25th February 2022, without granting any hearing to the petitioner, which is illegal.

4. According to learned counsel for the petitioner, the order passed by the Scrutiny Committee on 25th February 2022 is illegal and that even the order passed by the Scrutiny Committee on 11th February 2020, granting validity to the caste certificate of the petitioner that he belongs to "Maratha" caste, is required to be quashed and set aside in order to enable the petitioner to make a fresh attempt to prove that he belongs to "Kunbi" caste and not to "Maratha" caste, owing to subsequent developments. He also submits that unless and until the order dated 11th February 2020 is quashed and set aside, it would not be possible for the Scrutiny Committee to allow petitioner's review application dated 26th August 2022.

5. Learned AGP appearing on behalf of the respondent-State has opposed the petition by submitting that the order dated 11th February 2020 was passed by the Scrutiny Committee on the own claim of the petitioner that he belongs to "Maratha" caste and by this order, the Scrutiny Committee has upheld the claim of the petitioner that he belongs to "Maratha" caste and, therefore, now the petitioner cannot be permitted to change his claim and say that he belongs to some different caste. The learned AGP also submits that the order dated 11 th February 2020 cannot be found to be illegal as it is based upon the documentary evidence produced by the petitioner himself. She submits that all the documents submitted by the petitioner unequivocally show that his ancestors and forefathers belonged to caste "Maratha" and not the caste "Kunbi". She invites our attention to the three documents specifically mentioned in the impugned order, which contain entries, going as far back as 1960 and 1970, all of which show that the forefathers of the petitioner were "Maratha" by caste. She also submits that only because some other entries have been discovered by the petitioner, which show that those other relatives are belonging to "Kunbi" caste, it would not lead to an inference that the ancestors of the petitioner, of whose documents were considered by the Scrutiny Committee while passing the impugned order, did not belong to caste "Maratha".

6. Upon consideration of the reasons given in the impugned order and also the entries made in the documents relied upon by the petitioner himself, which have been duly considered and accepted as valid by the Scrutiny Committee, we find that there is no substance in the argument of learned counsel for the petitioner and that there is great merit in the submissions of the learned AGP.

7. It may be true that there are some subsequent entries, which have been discovered by the petitioner showing that some other relatives of the petitioner belong to "Kunbi" caste, but existence of such entries showing different caste of other relatives of the petitioner would not by itself contradict the entries made in the documents which have been considered by the Scrutiny Committee while passing the impugned order and which show that these relatives of the petitioner

are of the "Maratha" caste. The existence of different entries can never, by itself, lead to falsification of the other set of entries unless it is shown by the petitioner that the other set of entries does not depict the correct position with regard to the social status claimed by the petitioner. In fact, here is a case where the petitioner himself has claimed as he belonging to caste "Maratha" and has subsequently, seeing that some other relatives of the petitioner have got some documents showing them to be of "Kunbi" caste, thought of again taking a chance of changing his status by claiming that now he belongs to caste "Kunbi", for some purpose only known to the petitioner. Such an attempt on the part of the petitioner, which is in the nature of approbation and reprobation, is not permissible in law. The petitioner cannot be allowed in law to claim at one point that he has one social status, which is validated by the Scrutiny Committee also and then at other point of time, to claim that he has a different social status. If this is permitted, it will lead to uncertainty with regard to social status claimed by various persons and introduce an element of chaos in the policy of affirmative action initiated by the State. It would also lead to committing of malpractices by some persons in order to corner illegally the benefits flowing from reservation policy, which would ultimately adversely affect the public policy. When the social status claimed by a person at one point of time is accepted and certified to be valid by a competent authority, like the respondent no.1, there is no way that such person is allowed again to change his claim as regards his social status and is then allowed to be one of the beneficiaries of the policy of the affirmative action of the State. After all, sanctity as well as finality has to be attached to the claims of social status made by the persons, as a matter of public policy.

8. Apart from what is stated above, the legality and correctness or otherwise of the impugned order granting validity to "Maratha" caste certificate of the petitioner has to be judged not by reappreciating the evidence as if this court is a court of appeal, but by applying the test of triumvirate of patent illegality, arbitrariness and perversity, which would include aspects of fraud, misrepresentation and suppression of material facts. None of these, however, is reflected in the impugned order. We may add here that this court can also not interfere with a finding of fact recorded by the Scrutiny Committee by considering all the material facts, on the ground that another view is possible (see *Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development* (1994) 6 SCC 241). In the present case, we find that the impugned order has been passed by the Scrutiny Committee by considering all the material facts. So, viewed from all angles, the impugned order cannot be said to be bad in law.

9. For the aforesaid reasons, we find no merit in the petition. The petition stands dismissed. Rule is discharged.