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**(2014) 08 BOM CK 0016**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 3110 of 2002**

Ravi Janardhan Chalmela

APPELLANT

Vs

State of Maharashtra

RESPONDENT

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**Date of Decision :** 21-08-2014

**Acts Referred:**

**Citation :** (2015) 2 ALLMR 292 : (2015) 2 MhLj 837

**Hon'ble Judges :** Anoop V. Mohta, J;A.S. Gadkari, J

**Bench :** Division Bench

**Advocate :** R.K. Mendadkar, Helen Koli-Mandlik and Chintamani Bhangoji,  
Advocate for the Appellant; Niranjana Pandit, AGP, Advocate for the Respondent

**Final Decision :** Allowed

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## Judgement

Anoop V. Mohta, J.—Heard the learned counsel appearing for the parties.

2. The Petitioner has challenged impugned order dated 28 November 2002 passed by Respondent No. 2-Scrutiny Committee whereby, the Caste Claim of the Petitioner being "Mannewar Scheduled Caste" was rejected.

3. On 13 June 2001, the Petitioner was granted caste certificate in the prescribed format by Respondent No. 3 after satisfying strict and stringent provisions contained in the Government Resolution dated 7 March 1996 issued by Respondent No. 1.

4. The Petitioner is the student. Since the submission of caste validity certificate is the condition precedent for securing admission in the higher education after passing HSC (Science) examination, he moved Respondent No. 2-Scrutiny Committee for verification of his caste certificate as belonging to "Mannewar Tribe" which is Scheduled Tribe, as the Petitioner intended to go in for Engineering Degree and/or Medical course during the academic year 2002-2003 and submitted various documents, as contemplated and required under the standing orders of the Government, including judgment and order passed by this Court in Writ Petition No. 6375 of 1997 decided on 13 February 1998, thereby

declaring the paternal aunt of the Petitioner as belonging to "Mannewar Scheduled Tribe". This Court allowed the Writ Petition by order dated 13 February 1998, by the following order:-

"..... This aspect Mr. Sonawane, the learned Assistant Government Pleader could not dispute. His only submission is that the decision arrived at by the Appellate Authority at the relevant time was not passed on the basis of complete documents. According to him, the documents now available suggest otherwise. Undisputedly, further to this, Government has not filed any application for review of the order. The order has become conclusive and binding. The Scrutiny Committee while adverting to this order has adopted and reasoning for discarding the same which are totally non germane. The order in favour of the petitioner's brother being conclusive and final, the petitioner's brother entitled to the same benefit as to caste. The impugned order is therefore set aside. In view of the order, the petitioner Dr. Manorama Sanjay Pardamwar is also to be belonging to the Mannewar, Scheduled Tribe community. Rule made absolute in the above terms".

5. On 30 April 2002, however, without considering the judgment and order passed by the Division Bench of this Court in the case of real paternal aunt of the petitioner, Respondent No. 2 Scrutiny Committee, as a matter of policy, invalidated the caste certificate of the Petitioner.

6. On 22 August 2002, being aggrieved, the Petitioner filed the Writ Petition in this Court challenging the legality, validity and propriety of the above said order passed by Respondent No. 2-Scrutiny Committee. The above said matter was contested by Respondent No. 2 Committee and ultimately Writ Petition No. 1668 of 2002 filed by the Petitioner was disposed of with following directions:-

"(i) The impugned order dated 30th April 2002 is quashed and set aside and the case of the Petitioner is restored to the file of the Respondent No. 2 committee for deciding the matter afresh in the light of the judgment of this Court in Writ Petition No. 6375 of 1997 (Dr. Manorama Sanjay Pardamwar Vs. State of Maharashtra and Ors. decided on 13 February 1998).

ii) The Petitioner is directed to appear before the scrutiny committee on 9 September 2002.

iii) We expect Respondent No. 2 Committee to hear and decide the Petitioner's caste claim afresh in the light of the observations aforesaid expeditiously and in no case, later than three months from the date of production of the order of this Court."

7. On 28 August 2002, the above said judgment was brought to the notice of Respondent No. 2 and 3 by the Advocate appearing for the Petitioner and called upon them to comply the same. On 9 September 2002, the Petitioner and his father appeared before Respondent No. 2 and invited their attention to letter dated 27 August 2002 sent by the Advocate for the Petitioner along with

judgment and order dated 22 August 2002 passed by this Court in Writ petition No. 1668 of 2002. However, the Petitioner and his father was directed to go home and wait for call of Respondent No. 2-Scrutiny Committee. Thereafter, the father of the Petitioner was heard by Respondent No. 2-Scrutiny Committee, when Respondent No. 3 asked the Petitioner as to whether the Petitioner has any other additional documents, other than the judgment of this Court. Accordingly, the father of the Petitioner informed Respondent No. 3 that the Scrutiny Committee has to decide the validity of the caste certificate of the Petitioner in the light of the Judgment already delivered by the Division Bench of this Court in Writ Petition No. 6375 of 1997.

8. On 19 November 2002, since the time limit prescribed by this Court was getting expired, the Petitioner instructed his Advocate to call upon Respondent Nos. 2 and 3 to comply with the judgment and order passed by this Court. Accordingly, the advocate for the Petitioner sent a notice to Respondent Nos. 2 and 3 calling upon them to comply with the judgment and order passed by this Court so as to avoid unnecessary harassment and contempt of this Court. On 29 November 2002, the Petitioner filed Contempt Petition (Lodging) No. 121 of 2002 in this Court. On 30 November 2002, the advocate for the Petitioner received telegram from Respondent No. 2 stating that the caste claim of the Petitioner has been invalidated. On 5 December 2002, the advocate for the Petitioner received speaking order passed by Respondent No. 2 Scrutiny Committee invalidating the caste certificate of the Petitioner. On 6 December 2002, the Petitioner received the impugned order. Therefore, the present Petition.

9. Pending the Writ Petition, the Division Bench of this Court in Writ Petition No. 6602 of 2002, the Petitioner's paternal aunt (sister of the Petitioner's father) after hearing the parties on 7 February 2003, considering and taking note of the earlier Writ Petition No. 6375 of 1997 filed by Dr. Manorama Sanjay Pardamwar, recorded as under:-

"6. Finally, reliance was placed on a recent decision of this Court in Writ Petition No. 1668 of 2002 filed by Mr. Ravi Janardhan Chalmela. According to the Petitioner, he is the real nephew of the Petitioner. The Division Bench vide its judgment and order dated 22nd August, 2002 allowed the Petition and held that the petitioner belonged to Mannewar community. In the last judgment, the Court also considered the order in Writ petition No. 6375 of 1997 wherein Dr. Manorama was held to belong to Mannewar community. This Court proceeded to observe that it could not go into the correctness of the order passed in the said petition that Dr. Manorama belonged to Mannewar Scheduled Tribe community but the petitioner before the Court (Mr. Ravi Janardhan Chalmela) who was member of the same family belonged to a different caste or tribe."

Review Petition No. 54 of 2004 filed by the State Government was also dismissed/rejected.

10. As inspite of clear observations as recorded above by the Division Bench,

Respondent No. 2-Scrutiny Committee took a view/decision, which resulted into filing of a Contempt Petition No. 121 of 2002 on 29 November 2002 by the Petitioner. The statement is made that the Contempt Petition is disposed of as the concerned officers of the Respondents tendered unconditional apology.

11. There is no further challenge raised by the State of Maharashtra against the order so passed by this Court, including in the Contempt Petition, the findings therefore, referring to the Petitioner and his family members, with regard to the Caste claim in question has attained finality.

12. The learned AGP, however, makes submission and accordingly filed written notes of argument also supporting the orders passed by Respondent No. 2-Scrutiny Committee, mainly on the ground that:-(a) each claimant has to stand on its own leg in respect of his caste claim; (b) the Scrutiny Committee, as well as, the Court needs to consider and test each case, based upon the respective facts and circumstances, irrespective of the orders so passed in favour of the relatives of the Appellant, who filed or claimed such caste certificate and; (c) that the affinity test is important facet so also the Scrutiny Committee as contemplated under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate Act, 2000 (for short, "the Act") and in the present case, even the father's statement, as recorded, could not support the case of the Petitioner as expressed that it is not necessary to decide the caste claim.

13. The learned AGP referred the following Judgments in support of his contention (i) Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, (ii) Raju Ramsingh Vasave Vs. Mahesh Deorao Bhivapurkar & Ors. 2009(1) Mh.L.J. 1 and Pradeep Ramchandra Koli Vs. State of Maharashtra & Anr. 2010(5) Mh.L.J.

14. There is no question of further discussion so far as the law laid down by the Supreme Court, as well as, this Court. On the contrary, on the basis of same principles, as we have to consider the facts and circumstances of this case. The binding Judgments of this Court between the parties, in our view, conclude the issue in favour of the Petitioner.

15. Admittedly, the State Government never challenged those earlier orders, as referred above. The submission to distinguish those judgments, basically at the instance of the State Government, at this stage of the matter referring to the provisions of the Act, in our view, is also unacceptable. This cannot be the reason to discard and/or disrespect the Judgments passed by this Court basically dealing with the caste certificates of the relatives of the Petitioner whereby, based upon the then existing provisions and the material so available on record, approved the certificate so granted by Respondent No. 2-Scrutiny committee.

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 & 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*,

18. The submission of the learned AGP that there are other Judgments which have not accepted this line of orders. We are, in the present facts and circumstances, not accepting those submissions as the facts and circumstances are distinct and distinguishable for the simple reason that the order so passed and as recorded above, have attained finality. The concerned Respondents have tendered unconditional apology. Now, again to agitate the issue and contest the reasoning so given, in our view, is not acceptable. The concerned Respondents have failed to challenge those judgments at the appropriate time, which findings, in our view, as recorded, already attained finality. Therefore, as we are also in agreement with the orders so passed by the Division Bench of this Court as recorded above, we are inclined to pass the following order:-

#### ORDER

a) Impugned order dated 20 November 2002 passed by Respondent No. 2 Scrutiny Committee is quashed and set aside.

b) The Petition is allowed in terms of prayer clauses (a) and (b), which read thus:-

"a) This Hon''ble court be pleased to issue writ of Certiorari and or any other writ, order or direction in nature of Certiorari quashing and setting aside impugned order dated 28.11.2002 passed by the respondent no. 2 committee with further directions to the respondent no. 2 committee to issue caste validity certificate in the prescribed format validating the caste certificate dated 13.6.2001 issued by the respondent no. 3.

b) That this Hon''ble Court be pleased to hold and declare that the caste certificate dated 13.6.2001 issued by the respondent no. 3 is valid, legal and subsisting;"

c) Respondent No. 2-Scrutiny Committee to issue the caste validity certificate, as early as possible, preferably within 4 weeks from the receipt of copy of this order.

d) Rule is made absolute in above terms.

e) There shall be no order as to costs.

19. The learned AGP, inspite of above observations and though tendered unconditional apology by the officers of Respondent No. 2-Scrutiny Committee, on instructions, seeks to stay this order. Considering the above observations, there is no case made out to grant any stay. The Application/request is accordingly rejected.