

(2014) 02 BOM CK 0087
In the Bombay High Court
Case No : W.P. No. 6800 of 2013

Sanjay Pralhad Pardeshi

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 18-02-2014

Acts Referred:

Citation : (2015) 3 ALLMR 649 : (2014) 4 BomCR 733 : (2014) 4 MhLj 101

Hon'ble Judges : Anoop V. Mohta, J;A.A. Sayed, J

Bench : Division Bench

Advocate : B.L. Sagar Killarikar instructed by J.G. Reddy (Aradwad), Advocate for the Appellant; S.N. Patil, AGP, Advocate for the Respondent

Judgement

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

2. The Petitioner has challenged impugned order dated 8 July, 2013, whereby the Respondent-Committee invalidated the caste claim of the Petitioner by overlooking the real brother's caste certificate "Pardeshi Bhamta" (Vimukta Jati-A). After going through the reasons and after considering the submissions so raised by the learned counsel appearing for the Petitioner, we are inclined to quash and set aside the order basically for the reason that there cannot be different caste certificates of other family members than the person who is claiming validity of the caste certificate. In the present case, there is ample material on record to show the validity certificates are in favour of the Petitioner's real brothers Mr. Mahesh Pralhad Pardeshi and Mr. Jagdish Pardeshi as "Pardeshi Bhamta".

3. In view of no contra material on record, the certificate, in our view, just cannot be overlooked basically when there is no finding of fraud and/or misrepresentation. It is difficult to accept the reason so provided by overlooking the above position, while rejecting the claim of the Petitioner and also in view of the Judgment of Division Bench of this Court 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, The Division Bench of this Court, (Anoop V. Mohta and Z.A. Haq, JJ.) has also taken a view in *Vaishali Chatarsing Ingale (Thakur) Vs. The Committee for Scrutiny and Verification of Tribe Claims, State of Maharashtra and Zilla Parishad*, and noted in paragraph No. 5 as under:

5.....Where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view of the same facts would not entitle the committee dealing with the subsequent caste claim to reject it.....

The Same view is also taken by another Bench of this Court in *Mayur Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli and Others*,

4. For the above reasons, we are inclined to set aside the impugned order. However, we direct the Respondent-Committee to reconsider the same in accordance with law, as early as possible, preferably within 90 days from the date of receipt of this order, by giving an opportunity to all the concerned. Resultantly, the following order:

ORDER

(a) Impugned order dated 8 July, 2013 is quashed and set aside.

(b) The Respondent-Authority to reconsider the claim of the Petitioner in accordance with law, as early as possible, preferably within 90 days from the receipt of the copy of the order.

(c) All points are kept open.

(d) Rule made absolute, in the above terms.

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