

(2013) 08 BOM CK 0111

In the Bombay High Court

Case No : Writ Petition No. 2506 of 2005

Vaishali Chatarsing Ingale (Thakur)

APPELLANT

Vs

The Committee for Scrutiny and Verification of Tribe Claims,
State of Maharashtra and Zilla Parishad

RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2014) 1 ALLMR 78 : (2014) 1 BomCR 99 : (2013) 6 MhLj 251

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

Bench : Division Bench

Advocate : C.S. Kaptan and Mr. A.P. Kalmegh, for the Appellant; S.M. Puranik, Counsel for the Respondent No. 1, Shri A.D. Sonak, Assistant Government Pleader for the Respondent No. 2 and Shri A.B. Patil, Counsel for the Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

Z.A. Haq, J.—The petitioner has challenged the decision of the respondent no. 1-The Scrutiny Committee dated 21.03.2005 by which the caste certificate of the petitioner for "Thakur", which is recognized as Scheduled Tribe in the State of Maharashtra is invalidated. The case of the petitioner is that the respondent no. 1-The Scrutiny Committee has committed patent illegality in rejecting the caste claim of the petitioner and invalidating her caste claim as the caste certificate of the father of the petitioner showing her father as "Thakur" Scheduled Tribe is validated and there cannot be a situation that the father is recognized as "Thakur" Scheduled Tribe but, the petitioner is not being recognized as "Thakur" Scheduled Tribe. The petitioner has challenged the decision of the respondent no. 1-The Scrutiny Committee on several grounds. However, this writ petition can be decided on the short ground that the claim of the petitioner as "Thakur" Scheduled Tribe could not have been rejected by the respondent no. 1-The Scrutiny Committee in view of the fact that the caste certificate of the father of the petitioner as "Thakur" Scheduled Tribe has been validated.

2. Shri Kaptan, the learned Senior Advocate has relied on the following in support of his submissions.

i) Government Resolution dated 22.08.2007.

ii) The judgment reported in 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, .

iii) The judgment reported in Anand Vs. Committee For Scrutiny and Verification of Tribe Claims and Others, .

iv) The judgment reported in Ravindra Pralhadrao Khare Vs. State of Maharashtra and Others, .

3. We have considered the submissions of the parties. The Government Resolution dated 22.08.2007 lays down that if the validity certificate is issued by the Appropriate Authority in favour of any blood relation from father's side, then there is no need to demand any other document and the Scrutiny Committee should complete the enquiry within one month.

4. In the judgment reported in 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, , identical issue fell for consideration of this Court and the Division Bench has considered it in paragraph 9 as follows:

Para 9: ".... The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment (employment), and therefore 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 on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.

5. It is an admitted fact that the caste claim of Shri Chatarsing Narayan Ingale, the father of the petitioner, as "Thakur" Scheduled Tribe is validated by the Additional Commissioner, Amravati Division, Amravati, by the order dated 25.02.1989, who was the Appellate Authority at that time. The abovereferred order of the Additional Commissioner validating the caste claim of the father of

the petitioner has become final. It is not the case of the respondent no. 1-The Scrutiny Committee that the caste certificate and the order validating the caste certificate have been obtained by the father of the petitioner by fraud or misrepresentation.

6. Shri Puranik, the learned Advocate appearing for the respondent no. 1-The Scrutiny Committee, has not been able to point out anything on the record to show that the respondent no. 1-The Scrutiny Committee doubted the genuineness of the caste certificate of the father of the petitioner and the order validating the caste certificate.

7. We are of the considered opinion that the impugned decision of the respondent no. 1-The Scrutiny Committee is unsustainable in law and is contrary to the guidelines issued by the Government of Maharashtra in the Government Resolution dated 22.08.2007 and is contrary to the judgment of this Court, reported in 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, . Therefore, the writ petition is allowed. The impugned decision of the respondent no. 1-The Scrutiny Committee is quashed. The respondent no. 1-The Scrutiny Committee is directed to take into consideration the Government Resolution dated 22.08.2007 and the law laid down by this Court in the judgment reported in 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, and to furnish the Caste Validity Certificate to the petitioner. Rule is made absolute in terms of prayer clause (b). In the circumstances, the parties to bear their own costs.