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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7401 OF 2008

Sanjay S/o Kantilal Chavan }
 Age 38 years, Occu: Elected Member of
 Legislative Assembly from Constituency
 No.79, Baglan District Nashik residing }
 at Subhash Road No.3 Post Satana
 Taluka Baglan District Nashik } .. Petitioner

vs

1. The State of Maharashtra }
 Tribal Welfare Department,
 Mantralaya, Mumbai-32 through its
 Secretary.

2. The Scheduled Tribe Caste Certificate
 Scrutiny Committee, Nashik Division,
 Adiwasi Vikas Bhawan, Agra Road,
 Gadkari Chowk, Nashik through its }
 Member Secretary.

3. The Election Commission of India
 having its office at Nirvachan Bhawan, }
 New Delhi Through its Secretary.

4. The Chief Electoral Officer }
 for the State of Maharashtra
 The State of Maharashtra & ors

5. The Tahsildar }
 Baglan Disttict Nasik

6. Shri Umaji Manglu Borse }
 Age 38 years, Occu: Social work
 (Defeated candidate in Legislative
 Assembly Election 2004)
 residing at village Ladud
 A/P Sompur, Taluqa Baglan

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District Nashik.

} .. Respondents

..

Mr.PK.Dhakephalkar Sr. Advocate i/b Mr. Anil Golegaonkar
for the Petitioner

Mr.S.K.Shinde

Mr..G.S.Godbole i/b Ms.M.S.Parasnik for the Respondent no.6

CORAM: A.S.OKA & G.S.KULKARNI, JJ

Dated 25th September 2014

ORAL JUDGMENT (Per A.S.Oka, J)

1. Submissions of the learned counsel appearing for the parties were heard on 17th September, 2014 and today, the Petition is listed on Board for the dictation of the judgment.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner has taken an exception to the Judgment and order dated 22nd October, 2008 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nasik. By the impugned Judgment and order, the claim of the Petitioner that he belongs to "Thakur" a notified Scheduled Tribe has been invalidated.

3. With a view to appreciate the factual controversy, a brief reference to the facts of the case would be necessary:

4. Initially, on the basis of the caste certificate obtained by the Petitioner, an inquiry was held by the Caste Scrutiny Committee. The caste certificate was issued to the Petitioner on 7th August, 1978 by the Tahsildar, Baglan. By an order dated 21st April, 2001 the Caste Scrutiny Committee validated the caste claim of the Petitioner.

5. The 6th Respondent herein filed Writ Petition No.5386 of 2005 for challenging the said order of the Caste Scrutiny Committee. By a judgment and order dated 3rd July, 2008, by the consent of the parties, a Division Bench of this Court proceeded to set aside the Caste Validity certificate dated 21st April, 2001 and the matter of the Caste verification of the Petitioner was remanded to the Caste Scrutiny Committee for de-novo consideration and a fresh decision in accordance with law. While passing the order of remand, this Court directed that the Caste Scrutiny Committee shall not rely upon the order dated 5th October, 1996 passed by the Chief Judicial Magistrate, Satara in Enquiry Case No.10 of 1996. The said order of the Chief Judicial Magistrate was passed on an application made by the Petitioner for seeking a modification of the caste entry in his

School Leaving Certificate. Initially an entry of 'Hindu Thakor' was incorporated in the school record of the Petitioner. The prayer before the Chief Judicial Magistrate was to correct the said entry as 'Hindu Thakur.' By the order dated 5th October, 1996 the said Application was allowed by the learned Magistrate. It is this order which was directed to be kept out of purview in a fresh inquiry to be conducted by the Caste Scrutiny Committee after remand.

7. The learned Senior counsel appearing for the Petitioner has taken us through the impugned order of the Caste Scrutiny Committee as well as the relevant documents placed on the record of the Caste Scrutiny Committee. His basic contention is that though very old documents which came into existence prior to 6th September, 1950 (the date on which the Presidential Order on the Scheduled Tribes came into force) were produced by the petitioner, on technical grounds which are not at all tenable, the said documents have been discarded. His second grievance is that on the basis of the non-existing area restrictions, the caste claim of the Petitioner has been negated. The third submission is that though the Affinity Test is never conclusive which can be used only to corroborate the

documentary evidence, the caste claim of the Petitioner has been negatived on the basis of the Affinity Test which is contrary to the law laid down by this Court as well as by the Apex Court. The learned Senior counsel submitted that though the Petitioner may have committed a mistake by disputing his relationship with one Mr. Zipru Tanaji Thakur in the earlier Writ Petition, he has established his relationship with the said Mr. Zipru in the proceedings before the Scrutiny Committee after remand. He invited our attention to the genealogy produced by the Petitioner before the Caste Scrutiny Committee after the remand. He pointed out that Tanaji Chavan was the original ancestor. He had three sons namely Zipru Tanaji, Laxman Tanaji and Ramchandra Tanaji and a daughter by the name Saru. He pointed out that Laxman Tanaji had three sons Kantilal, Devidas and Ashok apart from a daughter Suman. He pointed out that the present Petitioner is the son of Kantilal. He pointed out that Bharati Devidas Chavan and Vijay Devidas Chavan who are the daughter and son respectively of Devidas have obtained the caste validity certificates. He submitted that the entry of Zipru Tanaji dated 1st October, 1909 and the entry of Laxman Tanaji dated 19th January, 1910 in the General Register of the Zilla Parishad Primary School at Navi Bej clearly

disclose their caste as 'Thakur'. He pointed out that the vigilance cell obtained the copies of the entries dated 20th September 1911 in the General Register of the Primary school at Ajmer Saundane, Taluka Baglan, District Nasik which show that the names of Zipru Tanaji and Laxman Tanaji appeared at serial nos. 216 and 217 wherein the caste of Zipru has been described as “Bhat”. He submitted that the documents produced by the Vigilance cell show that both Zipru and Laxman again obtained admission to the same school at Navi bej in August 1912. The entries made on their re-admission to the same school show their caste as “Thakur”. He urged that finding of the Caste Scrutiny Committee on the said entries made in the year 1912 is arbitrary. He pointed out that the Caste Scrutiny Committee observed that the caste entries of “Thakur” in the general register are the only entries in Marathi script on the relevant page of the School Register and all other entries are in Modi script. He pointed out that there are other caste entries on some page in Marathi and therefore, the finding of the Scrutiny Committee is erroneous. He submitted that merely because the School Record of the School at Ajmer Soundane refers to the surname or caste 'Bhat', the effect of the earlier entries made on 1st January, 1909 and 19th January 1910 of Zipru and

Laxman is not wiped out. He urged that there is an entry of Ramchandra Tanaji Chavan, the brother of Zipru and Laxman of 25th April, 1915 in the School Register at Navi Bej showing his caste as “Thakur.” He also pointed out that there is an entry of Saru, the sister of Zipru in the Birth Register vide entry dated 26th February, 1919. It shows her caste as “Thakur”. He pointed out that there is a School leaving Certificate issued to the father of the Petitioner showing his caste as “Hindu Thakur”. The date of admission of the Petitioner's father to the school is 12th June, 1952. He relied upon the caste validity certificate granted to Vijay Devidas Chavan and Bharati Devidas Chavan who are the cousins of the Petitioner. He submitted that though the caste validity certificates may have been granted without holding any inquiry, the same being of the first cousins of the Petitioner cannot be ignored. He urged that the old pre 1950 entries could not have been brushed aside by the Caste Scrutiny Committee.

7. The learned Senior counsel appearing for the Petitioner relied upon the various decisions of this Court and that of the Apex Court and in particular the Judgment and Order dated 26th February, 2014 of a Division Bench of this Court in the case of **MADHURI NITIN JADHAV VS STATE OF MAHARASHTRA** in Writ Petition No.7343 of 2013 and other

connected Petitions. He invited our attention to the various paragraphs of the said decision including paragraph nos.15 and 16. He urged that after the Presidential Order was modified in the year 1976, the area restrictions have been done away with. He pointed out that the Division Bench has held that the Caste Scrutiny Committee cannot deny the benefits of the reservation to the Thakurs on ground that their ancestors did not hail from those parts of the State of Maharashtra which were notified in the amendment of the year 1956. He urged that in the present case, the caste claim of the Petitioner has been negated by applying the non existing area restrictions. He also invited our attention to the decision of the Apex Court in the case of ***PALGHAT JILLA THANKAN SAMUDHAYA SAMRAKSHNA SAMITHI VS STATE OF KERALA*** [(1994) 1 Supreme Court Cases 359]. He also relied on the decision of the decision of a Division Bench of this Court in the case of ***PANDURANG RANGNATH CHAVAN VS STATE OF MAHARASHTRA*** [1998 MhLJ 906]. He also relied upon the decision of the Apex Court in the case of ***ANAND VS COMMITTEE FOR SCRUTINY AND VERIFICATION OF TRIBE CLAIMS*** [(2012) 1 Supreme Court Cases 113]. He relied upon the law laid down by the Apex Court in paragraph 22 of the said decision. He urged that the

Affinity test cannot be the basis for the rejection of the caste claim of the Petitioner and the same may be used at highest to corroborate the documentary evidence. He urged that the affinity test should not be the sole criteria to reject the caste claim. He urged that in the face of the voluminous documentary evidence relating to pre-presidential order period, the Caste Scrutiny Committee ought not to have done the exercise of rejecting the caste claim on the basis of the affinity test. He, submitted that a part of the impugned order which relates to the applicability of the area restrictions is completely contrary to the law laid down by the this Court in the case of **MADHURI NITIN JADHAV VS STATE OF MAHARASHTRA**. He pointed out that Thakur community was notified as a Scheduled Tribe under the first Presidential Order of the year 1950. He pointed out that while imposing area restrictions in the year 1956, the Thakurs from Talukas Nasik, Igatpuri and Sinnar in Nasik District were covered by the category of Scheduled Tribes. He submitted that in the present case, all the documents of the ancestors of the petitioners pertain to places in Taluka Baglan of Nasik District and therefore, even assuming that the Petitioner was under an obligation to establish that his ancestors came from a particular area, even the said test is satisfied by the

Petitioner.

8. Learned counsel appearing for the 6th Respondent pointed out that the findings of the Caste Scrutiny Committee are based on the material on record. He pointed out that in the Writ Petition filed by the 6th Respondent for challenging the earlier order validating the caste claim of the Petitioner, the 6th Respondent opposed the caste claim of the Petitioner by relying upon the documents of Zipru Tanaji which showed that the said Zipru Tanaji who was an ancestor of the Petitioner was belonging to 'Bhat' caste. He pointed out that in the reply filed by the Petitioner to the said Writ Petition, he contended that he did not have any ancestor by the name Zipru Tanaji. In the genealogy set out in the said Affidavit of the Petitioner, there was no reference to Zipru. He urged that this conduct of the Petitioner of subsequently contending that the said Zipru is his ancestor is sufficient to throw out this Writ Petition. He urged that the Petitioner in the said affidavit specifically denied his relationship with Zipru. He submitted that in any case, the said Affidavit reflects on the veracity of the case of the Petitioner. He pointed out that reliance cannot be placed on the school record of the Petitioner. He also pointed out that though the Petitioner is relying upon the School Leaving Certificate of his father, the

only page containing the entry of the name of Petitioner's father in the general Register of the school was found to be missing. The learned counsel urged that though it can be canvassed that what is held in the case of **MADHURI NITIN JADHAV** requires re-consideration by a larger Bench, in the facts of this case, the Petitioner has not discharged the burden on him of establishing his caste claim and therefore, even assuming that the caste claim could not have been rejected on the basis of the affinity test or by applying the area restrictions, the caste claim has to be negated on the basis of the material collected by the Caste Scrutiny Committee. The learned Special Counsel for the State also supported the submissions of the learned counsel for the 6th Respondent. He urged that the findings of the Caste Scrutiny Committee call for no interference. The learned Senior counsel appearing for the Petitioner submitted that it is impossible for the Petitioner to explain the subsequent entries of the names of Zipru and Laxman in the record of the school register of the school at Ajmer Soundane as the same are more than hundred years old. He urged that those entries are not sufficient to disbelieve the entries which are made in the first in point of time in the School Register of the school at Navi Bej.

9. We have carefully considered the submissions of the learned counsel for the parties. We have also perused the record. The law is well-settled. The burden of proof is always on the person who makes a caste claim. In the present case, the caste claim made by the Petitioner is that he belongs to 'Thakur' which is a notified scheduled Tribe. We must note here that as far as the “Thakur” tribe is concerned, in paragraph No.21 of the decision of this Court in *MADHURI NITIN JADHAV*, the Division Bench has noted that there are “Thakurs” belonging to the higher class like Kshatriya, Bhat, Bramhabhat and Rajput who are not entitled to the benefits. Therefore, this decision holds that there are “Thakurs” belonging to the higher class who do not belong to a Scheduled Tribe.

10. As stated earlier, initially by an order dated 21st April, 2001 the caste claim of the Petitioner was validated by the Caste Scrutiny Committee. We have perused the said order which is annexed to the Petition. It appears that only two basic documents were produced by the Petitioner in support of his submissions. The first document was the School Leaving Certificate of his father containing the entry of the year 1952 recording the caste as Thakur and the second document was the caste entry in the school leaving certificate of the Petitioner of the year

1974 wherein his caste is recorded as 'Thakur'. Other documents relied upon by the Petitioner were two Affidavits of his first cousins, both on the maternal and paternal side, which are referred to in the said order.

11. As far as the School Leaving Certificate of the Petitioner is concerned, the same contained the entry of caste as “Hindu Thakor” which was corrected under the orders of learned Magistrate dated 5th October 1996 as “Hindu Thakur”. However, the consent order of remand dated 3rd July, 2008 passed by the Division Bench in Writ Petition No.5386 of 2005 filed by the 6th Respondent holds that the Order dated 5th October, 1996 cannot be relied upon and therefore, the School Leaving Certificate of the Petitioner will have to be kept out of consideration.

12. As far as the School Leaving Certificate of the father of the Petitioner is concerned, we must note that the same was considered by the Caste Scrutiny Committee even after remand . The impugned order notes that the Petitioner relied upon the School Leaving Certificate of his father which is item No.5 in the list of documents relied upon by the Petitioner. The petitioner has relied upon the extract of the School Register

containing the entry of the name of his father showing the date of admission in the school as 12th June, 1952 and showing his caste as 'Thakur'. We must note here that the vigilance cell has noted that when the school Register of the concerned school at Satana, Taluka Baglan, District Nasik was inspected, the page of the concerned Register, on which the name of the petitioner's father was allegedly entered, had vanished. The caste scrutiny committee had given an opportunity to the Petitioner to deal with the vigilance cell report as seen from the impugned order which in detail records the objections raised by the Petitioner to the said report. The Caste Scrutiny Committee accepted the report of the vigilance cell to this extent which records that only the relevant page was missing from the General Register of the school. Therefore, the Caste Scrutiny Committee discarded the said document containing caste entry of the petitioner's father. We find no reason to find fault with the said approach.

13. Before we proceed further to consider the other documents, we must note here that the Petitioner is relying upon the Caste Certificate No.POL.S.R.595/78 dated 7th August, 1978 issued to him by the Tahsildar, Baglan. The Petitioner also relied upon the Caste Certificate of the same date issued by the same authority to his brother Kamlakar. The Caste

Scrutiny Committee noted that the vigilance report recorded that the Register for the year 1978 – 1979 containing entries of the said caste certificates was not available in the concerned office. In the vigilance Inquiry, the concerned Inquiry officer noted that going by the date of birth of the Petitioner, the said certificate was obtained by the Petitioner at the age of 9 which creates a suspicion. In the impugned judgment and order, the Caste Scrutiny Committee has recorded that the Petitioner was called upon to produce the original caste certificate of his brother Kamalakar. However, even after grant of reasonable time, he could not produce the caste certificate of his brother.

14. Now, we turn to the documents which were produced by the Petitioner after the order of remand. Two important documents were produced namely the School Leaving Certificate issued by the Zilla Parishad Primary School at Navi Bej to Zipru Tanaji Chavan and Laxman Tanaji Chavan which contained the caste entries of “Thakur”.

15. Before we deal with the said certificates, in Writ Petition No.5356 of 2008 filed by the 6th Respondent for challenging the earlier order passed

by the Caste Scrutiny Committee by which the caste claim of the Petitioner was accepted, it appears that a contention was raised by the said the Respondent that the Petitioner had an ancestor by the name Zipru Tanaji and the said contention was dealt with by the Petitioner by filing an Affidavit-in-reply dated 14th October, 2005. What is material is paragraph nos. 28 to 30 of the said reply which reads thus:

28. "In reply to para 5, I say that the genealogy tree as produced is clearly imaginary and not based on any documentary evidence The genealogy tree as produced is clearly wrong and misleading. The correct genealogy is as under :

Tanaji Shivram has sons namely Shripat, Laxman, Son and Ramchandra. The genealogy tree of my family is as under :-

Tanaji Shivram Chavan

Shripat	Laxman	Sonu	Ramchandra	Saru
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-.-.-.-.-

Sadashiv	Vimal
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Shakuntala
and
Sushila

Kantilal	Ashok	Prakash	Chahabu	Sanjay	Sumanbai
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Kamalakar	Sanjay	Shripad	Lata	Mangal	Surekha
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29. I, thus say and submit that from the above said genealogy, it would be abundant ly clear that I did not have any ancestor by name Zipru Tanaji Bhat as alleged by the Petitioner. Therefore put the Petitioner to strict proof the genealogy tree furnished by him in para no.5 on page no.8 of the Petition.

30. In reply to para 6, I say that I deny that Zipru Tanaji is my ancestor and therefore his documents cannot be relied upon against me by the Petitioner.”

(Emphasis added)

Thus, the Petitioner himself came out with a genealogy which did not include the name of Zipru Tanaji. Not only that he specifically denied that Zipru was his ancestor, he contended that the documents of Zipru cannot be relied upon. Surprisingly, after the order of remand, the Petitioner himself came out with a genealogy in his affidavit dated 1 October 2008 in which he included the name of Zipru by replacing the name of Shripat. Thus, by filing a genealogy after the order of remand by this Court which is different from the genealogy set out in his affidavit in reply filed by him in the earlier Writ Petition, the Petitioner came out with an altogether a new case that Zipru was the real brother of his grand father Laxman. This has to be appreciated in the light of the categorical statement on oath by the Petitioner denying that Zipru was his ancestor and contending that the documents of Zipru cannot be relied upon. This

conduct has to be borne in mind while dealing with the case made out by the Petitioner.

16. Going back to the documents produced by the Petitioner, as stated earlier, he has relied upon the School Leaving Certificates of Laxman and Zipru which show that they were admitted to the primary School at Navi Bej, Taluka Kalwan, Distict Nasik on 19th January 1910 and 1st October,1909 respectively showing their respective castes as 'Thakur'. The Petitioner has relied upon the School Leaving Certificate granted to Ramchandra Tanaji Thakur by the same school showing his date of admission as 16th July, 1905 and the caste as "Thakur." We must note that there is absolutely no explanation given by the Petitioner at any stage that after the order of remand as to why he relied upon the documents of Zipru when there was a categorical statement on oath in the affidavit-in-reply filed in this Court by the Petitioner denying that Zipru was his ancestor. The Petitioner owed an explanation to this Court about this earlier stand in the affidavit-in-reply and his failure to even include the name of Zipru in the genealogy incorporated by him in the said reply. The matter does not rest here. During the vigilance cell inquiry, an extract

of the general register of the primary school at Ajmer Saudane, Taluka Baglan, District Nasik containing the names of Zipru and Laxman was obtained. We have perused the said Extract. As observed by the Caste Scrutiny Committee, we find that at item No.216, the surname of Zipru appears as Bhat and the date of admission in the said school appears to be 27th September 1911. In the said item No.216, the caste Ziptru is stated as “Bhat”. The entry at serial No.217 is of Laxman Tanaji. The portions where his surname and caste are written have been torn. The vigilance cell verified the said entries from the original Register. Against entry Nos.216 and 217, it is recorded that Zipru and Laxman studied in the said school up to 20th August 1912. We must note here that the School Leaving Certificate of Zipru issued by the school at Ajmer Saundane is on record which describes his name as Zipru Tanaji Bhat and his caste as “Bhat”. It appears that there are subsequent entries of the names of Zipru as well as Laxman in the school at Navi Bej, Taluka Baglan, District Nasik. The said entries are at item Nos. 130 and 131. The item No. 132 is the entry of Ramchandra who is stated to be the brother of Zipru and Laxman. The names of the three brothers have been recorded as Zipru Tanaji Bhat Thakur, Laxman Tanaji Bhat Thakur and Ramchandra Tanaji Bhat Thakur.

Even in the School Leaving Certificates which are on record their surnames are described as 'Bhat Thakur'. They seem to have got admitted to the same school in August 1912. The name of the school last attended by the three brothers is shown against item Nos.130,131 and 132 as the school at Ajmer Saundane. Thus, the entry of the name of Zipru in the school record of the school at Ajmer Saundane shows that his caste is noted as "Bhat". Even his surname is noted as Bhat. This creates a serious doubt about the first entry of the caste in the record of the school at Navi bej. This has to be appreciated in the light of an important fact that in the reply to the earlier writ petition, the Petitioner specifically denied his relationship with the said Zipru and the name of Zipru did not figure in the genealogy set out by the Petitioner in his affidavit in reply to the said petition. The petitioner who has invoked extraordinary jurisdiction of this Court under Article 226 of the Constitution of India ought to have come out with some explanation in the present Petition for denying his relationship with Zipru in the earlier Petition. However, he has not even attempted to offer any explanation. Therefore, even assuming that the entries of Zipru relied upon by the Petitioner support his caste claim, the same will have to be discarded as in the affidavit-in-reply filed before this

Court, the Petitioner had categorically denied his relationship with Zipru. It is also important to note that the Petitioner relied upon only the first set of entries in the school at Navi bej which supported his case. However, the subsequent entries in the school record of the school at Ajmer Soundane were not produced by the Petitioner. Even the 3rd set of entries create a doubt in as much as the Petitioner did not produce the said entries and that the surname recorded in the entries is “Bhat Thakur”. We have already made a reference to the decision of the Division Bench of this Court on which the Petitioner has himself relied upon which records that “Thakurs” who belong to higher class such as Bhat are not entitled to the benefits of the Scheduled Tribes. As stated earlier, the 2nd set of entries obtained by the vigilance cell show the caste of Zipru as “Bhat”. As pointed out earlier, in the 3rd set of entries, the surnames of the three brothers contain the word “Bhat”. Perhaps that is the reason why the Petitioner by filing a reply to the earlier petition filed by the 6th Respondent denied his relationship with Zipru. Hence, we are of the view that the first set of entries of Zipru and Laxman do not substantiate the case of the Petitioner that they belonged to “Thakur”, a Scheduled Tribe. On the contrary, the 2nd and 3rd set of documents indicate that the three brothers did not

belong to “Thakur”, a Scheduled Tribe. Therefore, the caste entry of the year 1919 as Thakur in the school records of Saru, the sister of Zipru and Laxman, does not have any relevance as it is not established that the caste of her brothers was “Thakur”, a Scheduled Tribe. All the other documents relied upon by the Petitioner are of the persons claiming through Zipru and Laxman and the said documents are Post 1950 documents.

17. We have carefully perused the impugned judgment. The impugned judgment considers the objections raised by the Petitioner to the report of the vigilance cell. It is not pointed out to us by the Petitioner that any objection was raised by him regarding the genuineness of the 2nd set of entries of Zipru and Ramchandra in the record of the school at Ajmer Saundane and the third set of entries made in the school Register of the school at Navi Bej in August, 1912. There is not even a semblance of explanation in the present Petition as to why only the first set of entries were produced.

18. Learned senior counsel appearing for the Petitioner on the other hand submitted that there is an entry of Saru, the sister of Zipru and

Laxman showing her caste as 'Thakur'. We have already assigned reasons as to why the said entry will not be of any help the petitioner.

19. The Petitioner relied upon the caste validity certificates granted to Bharati Devidas Chavan and Vijay Devidas Chavan who are the daughter and son of Devidas. Admittedly that certificates have been issued without a passing a speaking order. There is nothing on record to show that a vigilance cell inquiry was made before issuing the said caste validity certificates. As the Caste Validity Certificates have been issued without holding any inquiry through vigilance cell and without recording any reasons, the same will have to be kept out of consideration.

20. A perusal of the impugned order of the Caste Scrutiny Committee shows that an independent inquiry that has been made by the Caste Scrutiny Committee. The Caste Scrutiny Committee has made an extensive reference to the conclusions drawn by the vigilance cell. It has considered the objections raised by the Petitioner to the vigilance cell report and thereafter, elaborate findings have been recorded by the Caste Scrutiny Committee. The observations and findings which we have recorded above

are after an independent scrutiny of the said documents. The original record of the case before the Scrutiny Committee is before this Court and the photocopies of all the relevant documents on record are before this Court.

21. Therefore, the only conclusion which can be drawn is that the Petitioner has failed to discharge the burden on him of establishing his caste claim. The Caste Scrutiny Committee has negated the caste claim firstly on merits and thereafter, on the basis of the Affinity test and area restrictions. Therefore, even if we ignore the last two findings of the Caste Scrutiny Committee based on the Affinity Test and area restrictions, the basic finding of the Caste Scrutiny Committee of the failure of the Petitioner to establish his caste claim will have to be upheld. It is true that in a Petition under Article 226 of the Constitution of India, this Court cannot embark upon an exercise of examination or scrutiny of the findings of facts on merits. Nevertheless as the issue was concerning the caste claim and as there was already one remand made by this Court, we have done the exercise of considering the documents only for the purpose of satisfying ourselves regarding the correctness of the findings recorded by

the Caste Scrutiny Committee.

22. Therefore, it is not necessary to deal with the submissions made as regards the Affinity test and the area restrictions. Ignoring the findings on these two aspects, the finding of fact of the Caste Scrutiny Committee on the merits of the caste claim will have to be upheld. In the circumstances, we see no merit in the Writ Petition.

23. Accordingly, Writ Petition is dismissed. Rule discharged. No order as to costs. Civil Application No.15219 of 2014 does not survive and the same is disposed of.

We direct the Registry to return the record of the Caste Scrutiny Committee after the Judgment is uploaded on the website.

(G.S.Kulkarni, J)

(A.S.Oka, J)

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