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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12805 OF 2016.

Megha Dilip Gavali Petitioner.
V/s.
State of Maharashtra & Ors Respondents.

Mr R.K. Mendadkar a/with Ms Komal Gaikwad for the Petitioner.
Mr C.P. Yadav, AGP for Respondent No. 1 to 3.
Smt. Chandrakala Sonkamble, Member of S.T. Caste Scrutiny
Committee, Pune present in court.

CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : 11th January, 2017.

P.C. :

1) We have heard both sides. We have perused the entire record including the affidavit filed in reply. In paragraph 10 of this affidavit in reply the Committee seeks to justify its conclusion in the impugned order in the following words :-

10. "I humbly say and submit that the petitioner is mainly relying upon the earlier validity certificates issued to her paternal side relatives. In this respect I humbly say and

submit that the validity certificate on which the petitioner has given most reliance are pertaining to the year 2001 to 2005. In this respect the Committee has also deeply studied the files of the said validity certificate holders. Considering the entire material from the files of the said validity certificate holders, the Committee has rightly concluded that the said validity certificates are issued on the basis of the legal position prevailing at that time after the decision of the Hon'ble High Court in Writ Petition No. 1961/1991 (Pandurang Rangnath Chavan). Further I humbly say and submit that the above said legal position has been changed after the decision of the Hon'ble Apex Court in Raviprakash Babulalsing Parmar's case. Hence, I humbly say and submit that the Committee has rightly invalidated the tribe claim of the petitioner by considering her case on the point of documentary evidence, oral evidence, cultural affinity, affinity towards area etc. The Committee has rightly shown inability to apply the ratio of the earlier validity certificates in the instant case. The Committee has also rightly observed in it's impugned order that the Committee is ready to reconsider the cases of the earlier validity certificates holders in the light of the latest legal position, if the Hon'ble High Court permits to do so and/or directs to do so”.

2) On a perusal of this paragraph, we enquired from Mr Yadav, learned A.G.P as to how in law the Committee could come to a conclusion that paternal relatives are either distant and not immediate, or the certificates of validity issued in their favour cannot be relied upon in the absence of a complete and proper enquiry by the very Committee. Mr Yadav found it difficult to justify this stand. He fairly submitted that the

certificates of validity issued to the relatives of the petitioner from the paternal side is an undisputed fact. These certificates are relevant piece of evidence and can be relied upon. They can be ignored and brushed aside only when there is a proven and established fraud or misrepresentation. It is only when such is the conclusion reached that these certificates of validity lose their evidentiary value and not otherwise. Once this legal position is conceded, we do not see how the impugned order can be sustained. It is accordingly quashed and set aside.

3) In the presence of the Member of the Committee, Mr Yadav assures the Court that within one week from today a certificate of validity will be issued to the petitioner by the said Committee. We direct accordingly.

4) Post this matter for reporting compliance on 18th January, 2017.

[B.P. COLABAWALLA, J.]

[S.C. DHARMADHIKARI, J.]