

SHANTIDEVI KAMALESHKUMAR YADAV

v.

STATE OF MAHARASHTRA AND ORS.

(Civil Appeal No. 5243 of 2008)

AUGUST 26, 2008

[DALVEER BHANDARI AND HARJIT SINGH BEDI, JJ.]

Administrative Law:

Principles of natural justice – Case before Caste Scrutiny Committee – Conclusion of hearing for orders – Thereafter, Caste Certificate Register called, for inspection and representative from office of Tehsildar, for recording statement, without notice to appellants – Held: It amounts to violation of principles of natural justice, equity and good conscience – Matter remitted to Caste Scrutiny Committee for deciding the case afresh.

After closure of the hearing of the case for orders before the Caste Scrutiny Committee, the Caste Certificate Register and the representative from the Office of Tehsildar were called without notice to the appellant. Aggrieved appellant filed writ petition which was dismissed. Hence the present appeal.

Disposing of the appeal and remitting the matter to Caste Scrutiny Committee, the Court

HELD: In the impugned judgment, there is no discussion regarding the main grievance of the appellant why the Caste Certificate Register was called for inspection on 28.10.2003 and the statement of the representative from the Office of the Tehsildar, Bombay City was recorded on 7.11.2003 after the conclusion of the hearing. Respondent could not give any satisfactory reply why the caste register was called for inspection and the statements of the representatives of the Office of the Tehsildar were recorded after the conclusion of the

A hearing without any notice to the appellant. In consonance with the principles of natural justice, equity, good conscience and fairness, the impugned judgments of the High Court and the Caste Scrutiny Committee are set aside. [Paras 6 to 8] [807-B-E]

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5243 of 2008

From the final Judgment and Order dated 14.10.2005 of the High Court of Judicature at Bombay in Civil Writ Petition No. 9231 of 2003

C Harish N. Salve, Sushil Karanjkar and K.N. Rai for the Appellant.

D Aparajita Singh, Aniruddha P. Mayee, Sanjay Kharde, Asha G. Nair, Makarand D. Adkar, Vijay Kumar, Vikram, Vishwajit Singh, C.K. Sasi, Anoop Kumar Srivastava, Rameshwar Prasad Goyal, P.R. Ramasesh, Rahul Gupta, Reema Sharma, Siddharth Choudhary and Bhargava V. Dasai for the Respondents.

The Judgment of the Court was delivered by

E **DALVEER BHANDARI, J.** 1. Leave granted.

2. The appellant is aggrieved by the judgment of the High Court of Judicature at Bombay dated 14.10.2005 delivered in Civil Writ Petition No. 9231 of 2003.

F 3. The main grievance which has been highlighted by the learned counsel for the appellant is regarding non-observance of the principles of natural justice. The appellant submitted that hearing of the case was closed for orders before the Caste Scrutiny Committee on 29.9.2003. Thereafter, without notice to the appellant, Caste Certificate Register was called on 28.10.2003 and representatives from the Office of the Tehsildar were called on 7.11.2003. This approach of the Caste Scrutiny Committee is clearly violative of the basic principles of natural justice.

G 4. According to the appellant, this grievance was clearly articulated before the Division Bench of the High Court, but it

did not deal with this aspect of the matter, therefore, in the interest of justice the matter should be remanded to the Caste Scrutiny Committee for deciding the matter afresh after hearing the counsel for the parties.

5. This Court after hearing the learned counsel for the appellant issued notice limited to the question as to whether the matter be remanded or not.

6. We have heard learned counsel for the parties at length and carefully perused the documents on record. In the impugned judgment, there is no discussion regarding the main grievance of the appellant why the Caste Certificate Register was called for inspection on 28.10.2003 and the statement of the representative from the Office of the Tehsildar, Bombay City was recorded on 7.11.2003 after the conclusion of the hearing.

7. We have heard learned counsel for the respondents at length but he could not give any satisfactory reply why the caste register was called for inspection and the statements of the representatives of the Office of the Tehsildar, Bombay were recorded after the conclusion of the hearing without any notice to the appellant.

8. In consonance with the principles of natural justice, equity, good conscience and fairness, we are compelled to set aside the impugned judgments of the High Court and the Caste Scrutiny Committee.

9. Consequently, we remit the matter to the Caste Scrutiny Committee to decide the case afresh after hearing the learned counsel for the parties. The Caste Scrutiny Committee must ensure that no hearing or deliberation takes place after the conclusion of hearing without notice to the appellant.

10. The matter has been pending for several years, therefore, we request the Caste Scrutiny Committee to dispose of this case as expeditiously as possible. No further directions are necessary. This appeal is accordingly disposed of. No costs.

D.G.

Appeal disposed of.