

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4457-4458 OF 2021

(Arising out of SLP (Civil) No(s). 10675-10676 of 2020)

ARUNA

...APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

...RESPONDENT(S)

WITH

CIVIL APPEAL NO(s). 4459 OF 2021

(Arising out of SLP (Civil) No(s). 11416 of 2020)

ARUNA

...APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

...RESPONDENT(S)

JUDGMENT

NAVIN SINHA, J.

Leave granted.

2. The appellant assails the dismissal of her writ petition and the review petition by the High Court. The High Court declined

to interfere with the order of the District Caste Verification Committee (hereinafter referred to as 'the Committee') dated 22.10.2018. The Committee declined to verify the caste certificate of the appellant under the proviso to Rule 14 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Category (Regulation of Issuance and Verification of Caste Certificate Rules, 2012 (hereinafter referred to as 'the Rules'). The appellant, as a consequence, stood retrospectively disqualified to hold the post of President of the Municipal Council, Kundalwadi, under Section 9A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to 'the Act').

3. Shri B.H. Marlapalle, learned senior counsel appearing for the appellant, submitted that the acceptance of her nomination by the Returning Officer for the post of President was unsuccessfully challenged by respondent No. 4 in Election Appeal No. 02 of 2016 on the ground that her caste certificate dated

22.11.2016 was invalid. The appellant, prior to filing her nomination had obtained the requisite caste certificate in Form 10 under Rule 6(1)(a) from the competent authority in the State of Maharashtra. The Appellate Court upheld the validity of her caste certificate, and left the verification of the same to the Committee, where it was pending. The Committee upheld the validity of the caste certificate, but erred in holding that the certificate having been issued to a migrant from another State it could not verify it under the proviso to Rule 14. The appellant having failed to submit the verification of the caste certificate within the stipulated time, was declared disqualified retrospectively under the Act.

4. Shri Marlapalle submits that the Verification Committee erred in relying upon the proviso to Rule 14. The caste certificate of the appellant had not been issued by an authority from another State. The High Court failed to notice the certificate issued to the appellant was under Rule 6 (1) (a) in Form 10, the validity of which had been upheld both by the Appellate Court

and the Committee. It erroneously opined that she could not have contested the elections on basis of a certificate issued at Hyderabad, without a fresh Caste Certificate from the State of Maharashtra notwithstanding that “Munnur Kapu” had been declared an “Other Backward Caste” in Maharashtra also on 07.12.1994.

5. Shri Rahul Chitnis and Shri T.R.B. Sivakumar, learned counsel for the State and Respondent No.4, submitted that the Appellate Court had left the verification of her caste certificate to the Committee. The Committee did not verify the same as having been issued by the authorities at Hyderabad. The appellant ought to have applied for a fresh certificate under the Rules. The retrospective disqualification of the appellant therefore merits no interference as she failed to submit her verified caste certificate within the stipulated time.

6. We have considered the submissions on behalf of the parties. The controversy lies in a narrow compass. Both, the

Committee and the High Court having posed unto themselves a wrong question, arrived at an erroneous conclusion. The High Court completely misdirected itself in holding that the appellant had been issued a caste certificate under Rule 6(1)(c) and was therefore ineligible to contest in the State of Maharashtra as she was a migrant after the deemed date.

7. The father of the appellant was born in Nanded, Maharashtra but migrated to Hyderabad in or about the year 1960. The appellant was born in Hyderabad and pursuant to her marriage on 24.05.1987, she migrated from the State of Andhra Pradesh to Maharashtra. She held a valid caste certificate issued to her at Hyderabad as belonging to the Other Backward Caste “Munnur Kapu”. As on the date of her migration “Munnur Kapu” was not recognised as an Other Backward Caste in Maharashtra, till it was so recognized on 07.12.1994. The appellant applied for and obtained a caste certificate in Form 10, under Rule 6(1)(a) from the Sub-Divisional Officer, Biloli, Maharashtra, as she

desired to contest the election for the post of President Municipal Council. Rule 6 in the relevant extract reads as follows :-

“6. Issuance of Caste Certificate to migrated persons. - (1) in case of persons migrated from other State or Union Territories to Maharashtra State,-

(a) The Competent Authority, if satisfied, may issue Caste Certificate to the applicants belonging to, Scheduled Caste in FORM-6 and in case of Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category in FORM-10, to an applicant who has migrated to Maharashtra State from any other State or Union Territory, on production of the respective Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category Certificate issued to his father or grand-father or relative by the concerned Competent Authority of that State;

(b) If the Competent Authority is of the opinion that before issuing such Caste Certificate in FORM-10 to a migrated person, a detailed inquiry is necessary, then he may do so through the applicant's State of origin;

(c) A Caste Certificate holder who has migrated to the State of Maharashtra from the State of his origin for the purpose of seeking education, employment, etc., may be deemed to be the person belonging to Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribe (Vimukta Jatis) or Nomadic Tribe or Other Backward Class or Special Backward Category, as

the case may be, of the State of his origin and may be entitled to derive benefits from the State of his origin and Union Government, but he shall not derive any benefits from the State of Maharashtra.

Explanation. — For the purpose of sub-rule (1), “migrant from other State” means, -

(i) a person who has migrated to Maharashtra State from any other State or Union Territory on or after the deemed date;”

Rule 2 (e) defines deemed date, relevant to the appellant, as 13.10.1967.

8. The validity and genuineness of the appellant’s caste certificate dated 22.11.2016 under Rule 6(1)(a) was upheld by the appellate authority and the Committee. The Committee patently erred in declining to verify her caste certificate on 22.10.2018, based on a complete misconception of facts. The caste certificate of the appellant dated 22.11.2016 was issued under Rule 6(1)(a) by the competent authority of the State of Maharashtra and not by the competent authority at Hyderabad. Rule 14 reads as follows:

“14. **Verification of Caste Certificate**-Any person desirous of availing of the benefits and concessions

provided to the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Categories for any of the purposes as mentioned in Section 3 of the Act shall invariably submit an application in **FORM-16** with an affidavit in **FORM-3** and **FORM-17** for students; **FORM-18** with an affidavit in **FORM-20** with an affidavit in **FORM-3** and **FORM-21** for election purpose; or **FORM-22** with an affidavit in **FORM-3** and **FORM-23** for other purpose, as per his requirement, to the concerned Scrutiny Committee for verification of his caste claim and issue of Caste Validity Certificate, well in time:

Provided that, the Caste Certificate issued to migrant from other State and Caste or Community Certificates issued by Authorities of the States other than the State of Maharashtra, shall not be verified by such Caste Scrutiny Committee.”

9. To our mind, the conclusion of the Committee reflects a confusion in thinking of the members of the Committee. The Committee could not verify a caste certificate issued by a competent authority of another State under the proviso to Rule 14. But we fail to understand, how the Committee could decline to verify a certificate issued under Rule 6(1)(a) in the prescribed Form 10, the validity or genuineness of which was not in issue at all.

10. The appellant having been elected on 28.12.2016 was required to submit her Caste Certificate after verification by the Verification Committee within one year under Section 9(A) of the Act as amended by the Maharashtra Act No. LXV of 2018 in Section 5B with effect from 07.04.2015. In absence of the same she stood retrospectively disqualified to her elected post of President. Reference may appropriately be made to ***Benedict Denis Kinny and Ors v. Tulip Brian Miranda and Ors***, AIR 2020 SC 3050, for the mandatory nature of the disqualification in such event.

11. The High Court committed serious error of record in examining the claim of the appellant under Rule 6(1)(c) which deals with migration for the purpose of education, employment etc. based on a caste certificate from the State of origin, being ineligible in the State of Maharashtra if the migration was after the deemed date. The High Court grossly erred in failing to appreciate that the appellant held a valid caste certificate from

the competent authority in the State of Maharashtra under Rule 6(1)(a) in Form 10 in accordance with the prescribed procedure, the genuineness and validity of which was not in question before it. Furthermore, the appellant was not seeking the reserved status for the purpose of education or employment. The High Court arrived at a completely wrong conclusion by reason of an erroneous appreciation of the facts. The order of the High Court is therefore held to be unsustainable.

12. That brings us to the nature of relief to be granted to the appellant in the facts and circumstances of the present case. The elected tenure of the appellant comes to an end in December, 2021. In the meantime, respondent no.4 assumed the position of the President after the disqualification of the appellant. We are, therefore, satisfied that present is not a fit case where we should reinstate the appellant. The relief therefore has necessarily to be moulded to be prospective in nature, with regard to her caste status as “Munnur Kapu” in the State of

Maharashtra as from 22.11.2016. The order of the High Court is set aside and the appeals are allowed to the extent indicated.

.....**J.**
(Navin Sinha)

.....**J.**
(R. Subhash Reddy)

New Delhi,
July 27, 2021