



LSP

wp 14840.22.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 14840 of 2022

Mrs. Geeta Dattatray Achari ... Petitioner
V/s.
State of Maharashtra and others ... Respondents.

Mr. Yash Agarwal a/w. Advocate Disha Rathod and Advocate
Ruturaj Bethe i/b. Vaibhav Kulkarni for the Petitioner.

Mr. G.R.Raghuwanshi, AGP for the Respondents-State.

CORAM : M.S. KARNIK &
S.M. MODAK, JJ.

DATE : 29th January 2026.

JUDGMENT: (PER S.M.MODAK, J)

. An interesting question has arisen in this petition which pertains to ascertaining the caste of an adopted child. This question has arisen on the background that the parents of the adopted child are not known. He was abandoned and was thereafter adopted by the present Petitioner, being the adoptive mother. She along with her husband Dattatray have made an application before the District Court, Pune as per the provisions of what was then ‘The Juvenile Justice (Care and Protection of Children) Act, 2000’. One ‘*Society for Friends of the Sassoon Hospital*’(SOFOSH) was also a co-

Digitally
signed by
LATA
SUNIL
PANJWANI
Date:
2026.01.30
19:05:08
+0530

applicant.

2. The District Court after completing the procedure as per the order dated 22nd August 2014 has passed the following order:-

- “1. The application is allowed.
2. It is hereby declared that the birth date of male minor Om Dattatray Achari is 5/2/2010 at Pune, (Maharashtra State).
3. It is hereby declared that proposed adopters MR. Dattatray Waman Achari and Mrs. Geeta Dattatray Achari are adoptive parents of male minor Om, henceforth wished to be named as Om Dattatray Achari.
4. It is hereby directed to the Municipal Corporation, Pune, to issue birth certificate of minor Om, henceforth wished to be named as Om Dattatray Achari by showing the proposed adopters Mr. dattatray Waman Achari and Mrs. Geeta Dattatray Achari as a parents of the said child.
5. Proposed adopters Mr. Dattatray Waman Achari and Mrs. Geeta Dattatray Achari shall take suitable Life Insurance Policy having face value of Rs.1,00,000/- (Rupees One Lac) in the name of minor Om, henceforth wished to be named as Om Dattatray Achari under their guardianship.

6. Proposed adopters Mr. Dattatray Waman Achari and Mrs. Geeta Dattatray Achari shall also invest the amount of Rs.1000/- (Rupees One Thousand) per month in recurring deposits in any Nationalized Bank, in the name of minor Om, henceforth wished to be named as Om Dattatray Achari, till he attains age of majority under their guardianship.
 7. Proposed adopters shall submit progress report of the child at the interval of every three months for the first two years and then at the intervals of every six months for next five years.
 8. Proposed adopters shall submit xerox copies of papers of investments to this court within three month from the date of this order.
 9. Proposed adopters shall pay Rs.1000/- (Rupees one thousand) to ICSW, Pune, towards expenses.
 10. Record and Proceeding be preserved in sealed condition.”
3. The Petitioner belongs to Special backward category and accordingly on her application Dy. Collector, Pune has granted caste certificate in favour of the adopted son Om on 19th June 2017. There was a complaint by an unknown person that the Petitioner has

obtained the caste certificate on the basis of false documents. The Sub-divisional officer conducted an enquiry and as per his order dated 21st February 2018 cancelled the caste certificate. The appeal filed on behalf of the Petitioner was dismissed by Caste Scrutiny Committee, Pune as per their order dated 31st December 2018. There is a challenge to this decision by way of this petition.

4. Accordingly, we have heard learned Advocate for the Petitioner and learned AGP for Respondent Nos.1 to 3 – State. According to the Petitioner the issue involved in this petition is covered by the observations made by Division Bench of this Court in case of *Dr. Sonal Pratapsingh Vahanwala v/s. Deputy District Collector (Encroachment) Dharavi Division and others*¹. The submission is that when the parents of adopted child are not known and if there is valid adoption, the caste of the adopted child would be the same as that of the adoptive parents whereas learned AGP supported the impugned order and according to her there is no provision in the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste) Certificate Act, 2000 (for short ‘the Caste Validity Act of 2000’) for grant of caste certificate of adopted child.

Consideration

5. We have revisited the provisions of the Maharashtra Scheduled

¹ 2022 SCC Online Bom 628

Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste) Certificate Act, 2000. As per Section 3 of the said Act, a person who intends to seek benefit of reservation on the basis of caste or tribe, can make an application for issuance of a caste certificate before the Competent Authority. There is a mechanism provided in the said Act. There is also a provision of appeal against the decision of the Competent Authority. It is not enough only to obtain a caste certificate but it has to be verified by Scrutiny Committee (constituted) as per the provisions of Section 6 of the said Act. In the case before us caste certificate was granted by Competent Authority and it was cancelled by the same Authority. The Government of Maharashtra has framed Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste) Certificate Rules 2012 (for short 'Rules of 2012'). Rule-4 lays down the procedure for obtaining caste certificate. There is Form No.1 which is prescribed for filing an application. It can be filed even by the parent of the Applicant. It has to be supported by the documents which are provided under sub-rule 2 of Rule-4. One of them is an extract of birth register.

6. In the case before us the Petitioner has produced the birth extract from the Corporation record. It is on the basis of the order

passed by the District Court. Sub-rule (3) of Rule (4) contains the provision about the mode to be adopted if the Applicant is not possessing the documents mentioned in sub-rule (2). The Applicant has to state the reason by way of an affidavit and it is for the Competent Authority to consider it and decide on merit. It is true that 'neither of the provisions from the Act or Rules referred above' are dealing with the issue involved in this petition. So we have to decide 'whether the order of adoption passed by the District Court and consequent entry made in the birth register by the Corporation' can be considered as sufficient documents to prove that the caste of the adopted child is that of his adopted parents.

7. We have gone through the observations in case of *Dr. Sonal* (supra). Similar issue was involved. In that case, there was an order of adoption passed by the City Civil Court. The Competent Authority has refused to issue caste certificate and the decision was confirmed by the Scrutiny Committee. The Division Bench has considered the relevant provisions of Hindu Adoption and Maintenance Act, 1956. The Division Bench has also considered what is the effect of adoption as laid down in Section 12 of the said Act. Even the Division Bench has considered the observations by the Supreme Court in case of *Rameshbhai Dabbhai Naika v/s. State of Gujarat and others*². We are satisfied that those observations are applicable to the facts of this case. We want to give additional

² (2012) 2 SCC 400

reasons.

The Provisions of Juvenile Justice Act

8. When the District Court has passed an order on 22nd August 2014, the Juvenile Justice Act of 2000 was in force. As per the provisions of Section 41 of the said Act there is a provision for adoption of 'orphan, abandoned and surrendered children'. Such an application has to be made before the Court including the District Court. The Court is required to satisfy itself on certain aspects. On due satisfaction the order is to be passed.

9. There are provisions relating to adoption in Personal Laws of the parties to which they belong. There are also certain codified laws on this subject. There are provisions for protection of children in Constitution as well. Though attempts were made to codify general law on this subject, for the first time the provision for adoption of orphaned, abandoned, neglected and exploited children was made in Juvenile Justice (Care and Protection of Children) Act, 2000. It is by way of Chapter IV "Rehabilitation and Social Integration". Meaning of adoption was not there in the year 2000 Act. It was inserted by way of Amendment Act No.33 of 2006. Meaning of adoption is given in **Section 2(aa)** of the said Act. It is as follows:

“(aa) “adoption” means the process through which the adopted child is permanently separated from his biological

parents and become the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.”

10. Whereas, Chapter IV further contains provision for rehabilitation. Adoption is one of the methods of Rehabilitation. The power to give children in adoption is given to the Court, subject to fulfillment of the guidelines and after arriving at satisfaction. The State Government is empowered to recognise certain institutions in every district who can act as adoption agencies for such children. Sub-section (5) Section 41 also lays down what are the parameters to be considered by the Court prior to passing the adoption order.

11. If we consider these provisions in the facts before us, we may find that the adoption order is passed by District Court Pune on 22nd August 2014. There is no dispute about this order. Now the issue is on the basis of this order can it be said that caste of adopted child is that of his adoptive parents. It is no doubt true that natural parents of adopted child were not known so also their caste. We will have to see the effect of adoption as contemplated as per J.J. Act of 2000.

12. No doubt, this Act was repealed by 2015 Act. There is a provision laying down what are the effects of adoption in 2015 Act. It is by way of Section 63. The effect of such adoption is severing of ties of such child from his family of natural parents and it is

replaced by creating ties with the family of adoptive parents. It is true that a similar provision does not find place in J.J. Act of 2000. However, we can find some support when the meaning of adoption is incorporated in Section 2 (aa) of the old Act.

13. When the process of adoption is completed, the adopted child becomes legitimate child of the parents and all rights, privileges and responsibilities are bestowed on him which are attached to that relationship. It is by way of deeming fiction. If such right is not bestowed on him, his future will remain in limbo and his future will be in dark. In order to deal with such a situation, legislatures have given the meaning of adoption.

14. We feel that the Committees have not considered the legal effect of adoption as contemplated under aforesaid provisions of J.J. Act of 2000. Considering the said perspective the decision of the Committee needs to be set aside. The adopted child needs to be given a legal status as being the child of adoptive parents. The Petitioner's adoptive parents belong to Special Backward Category. Adopted child has to be given the same status. Ultimately Court has to interpret the provisions of Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste) Certificate Act, 2000 by considering the provisions of J.J. Act of 2000. So we are

inclined to allow the Petition. Hence, the order:

ORDER

- 1) The Writ Petition is allowed.
- 2) The Order dated 21st February 2018 passed by the Sub-Divisional Officer and Order dated 31st December 2018 passed by District Caste Certificate Scrutiny Committee is hereby set aside.
- 3) The Respondent No.3 – Scrutiny Committee is directed to issue caste validity certificate to Om Dattatray Achari being a member of Special Backward Category within four weeks of communication of this order.

(S.M. MODAK, J.)

(M.S.KARNIK, J.)