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VILAS DINKAR BHAT

v.

STATE OF MAHARASHTRA & ORS.

(Civil Appeal No.2095 of 2007)

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AUGUST 10, 2018

[ABHAY MANOHAR SAPRE AND S. ABDUL NAZEER, JJ.]

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Practice and Procedure – Appellant approached the Committee concerned as also the High Court for a declaration that by birth he belongs to “Thakar” caste, a Schedule Tribe – Claim dismissed – Held: Committee though considered some documents filed by the appellant but did not consider all the documents on which the appellant had placed reliance – High Court in its writ jurisdiction declined to go into the merits of the writ petition – When a party relies upon any evidence, whether it is oral or documentary, in support of his case, the Court/Committee/Authority, as the case may be, and especially the original Court is under an obligation to apply its mind to entire evidence and record its reasoned findings whether accepting the evidence or rejecting it – This principle was not followed by the Committee– Case remanded to the Committee for considering it afresh – Order of High Court and the Committee set aside.

Allowing the appeal, the Court

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HELD: 1.1 The Committee though considered some documents filed by the appellant but did not consider all the documents on which the appellant had placed reliance. The High Court in its writ jurisdiction declined to go into the merits of the writ petition stating that since the issue involves questions of fact, it was not possible to examine the case on facts in its writ jurisdiction. It was more so when the Committee probed the issue in detail on facts. When a party relies upon any evidence, whether it is oral or documentary, in support of his case, the Court/Committee/Authority, as the case may be, and especially the original Court is under an obligation to apply its mind to the entire documentary evidence on which the party has placed reliance for proving his case and record its reasoned findings whether accepting the evidence or rejecting it. What is important is the

consideration of entire evidence adduced by the parties in accordance with law while deciding the case. This principle was not followed by the Committee while considering the appellant's case. The case is remanded to the Committee for reconsideration of the appellant's case on its merits in accordance with law. [Paras 10-12] [1058-E-H; 1059-A]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2095 of 2007.

From the Judgment and Order dated 12.07.2004 and 11.12.2006 of the High Court of Judicature at Bombay in Writ Petition No.7518/2002 and Review Petition No. 2982/2006 respectively.

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Sudhanshu S. Choudhari, Ms. Surabhi Guleria, Shakul R. Ghatole, Ms. Deepa M. Kulkarni, Nishant Ramakantrao Katneshwarkar, Advs. for the appearing parties.

The Judgment of the Court was delivered by

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ABHAY MANOHAR SAPRE, J. 1. This appeal is directed against the final judgment and order dated 12.07.2004 passed by the High Court of Judicature at Bombay in Writ Petition No.7518 of 2002 and the judgment and order dated 11.12.2006 in Review Petition No.2982 of 2006 whereby the High Court dismissed the Writ Petition and also the Review Petition filed by the appellant herein.

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2. Few facts need to be mentioned to appreciate the short issue involved in the appeal.

3. The question arises in this appeal is about the caste of the appellant-whether the appellant belongs to a caste, known as "Thakar"- a Schedule Tribe, or not.

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4. According to the appellant, he by birth belongs to "Thakar" caste which is a Schedule Tribe and, therefore, he is entitled to claim a declaration to that effect in his favour.

5. For claiming this declaration, the appellant approached to the Committee concerned and also the High Court of Bombay twice but his claim suffered dismissal before the Committee and the High Court in the writ petition on both the occasions giving rise to filing of this appeal by way of special leave against the order of the High Court.

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A 6. Submission of learned counsel for the appellant was essentially one. His argument is that though the appellant had filed as many as 50 documents in support of his case to prove that he belongs to a caste “Thakar” but unfortunately neither the Committee and nor the High Court examined the documents in their proper perspective in their respective jurisdiction and, therefore, the matter needs to be reconsidered by the
B Committee afresh.

 7. Learned counsel especially brought to our notice the documents at pages 30 to 33 of the SLP paper book, which, according to learned counsel, are in his favour but none of these documents were considered either by the Committee or the High Court.
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 8. In reply, learned counsel for the respondent (State) supported the impugned order of the High Court.

 9. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and while setting aside the impugned order and also the order of the Committee,
D remand the case to the Committee for fresh consideration of the appellant’s case on its merit.

 10. On perusal of the Committee’s order, we find that the Committee though considered some documents filed by the appellant but did not consider all the documents on which the appellant had placed
E reliance. The High Court in its writ jurisdiction declined to go into the merits of the writ petition stating that since the issue involves questions of fact, it is not possible to examine the case on facts in its writ jurisdiction. It is more so when the Committee probed the issue in detail on facts.

 11. In our opinion, when a party relies upon any evidence, whether it is oral or documentary, in support of his case, the Court/Committee/
F Authority, as the case may be, and especially the original Court is under an obligation to apply its mind to the entire documentary evidence on which the party has placed reliance for proving his case and record its reasoned findings whether accepting the evidence or rejecting it. What
G is important is the consideration of entire evidence adduced by the parties in accordance with law while deciding the case.

 12. It is for this reason, we consider it proper to remand the case to the Committee for reconsideration of the appellant’s case on its merits in accordance with law keeping in view our observation made *supra*

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because we find that this principle was not followed by the Committee while considering the appellant's case. A

13. The Committee will decide the matter after affording an opportunity to the appellant strictly in accordance with law without being influenced by any of our observation on merits which we have refrained to make once formed an opinion to remand the case to the Committee. B

14. The appeal thus succeeds and is accordingly allowed. Impugned order and the order of the Committee are set aside. The case is remanded to the Committee for its disposal afresh, as directed above, within six months.

Divya Pandey

Appeal allowed. C