

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.3100 OF 2001

Miss Charusheela d/o Vilas Chavan,
Age 17 years, Occ. Student,
since minor through her
father Vilas s/o Vithal Chavan,
Age 65 years, Occ. Pensioner,
Residing at A.10/2, Rajmudra
Housing Society, Dhankawadi

... PETITIONER

VERSUS

1. The State of Maharashtra,
Copy to be served on the
Government Pleader, High Court of
Judicature at Bombay,
Bench at Aurangabad
2. The Committee for Scrutiny
and Verification of Tribe Claims,
Maharashtra State, Queen Garden
Road, Pune – 1
3. The Director of Technical Education,
Maharashtra State, Shivaji Nagar,
Pune – 5
4. The Director of Town Planning,
Maharashtra State, Pune.

... RESPONDENTS

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Shri S.R. Barlinge, Advocate for petitioner
Shri S.G. Sangle, A.G.P. for respondents No.1, 3 & 4
Shri A.B. Tele, Advocate for respondents No.2
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CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 8th May, 2015.

Date of reserving order : 8/4/2015

Date of pronouncing order : 8/5/2015

O R D E R (PER A.I.S. CHEEMA, J.)

1. Shri S.R. Barlinge, learned counsel appearing for petitioner has submitted that the petitioner Charusheela Vilas Chavan belongs to Mahadeo Koli (Koli-Mahadeo ?) – Scheduled Tribe. She hails from Mehunbare, located in Jalgaon district. Her certificate of caste has been invalidated by the Committee in spite of voluminous documents. Mr. Barlinge submitted that, the paternal cousin of her father namely Bapu Daulat Chavan had earlier been refused validation of his caste claim as Mahadeo Koli, but later on High Court, in Writ Petition No.3187/1994 directed issue of validation. Earlier, certificate of Rajendra s/o Bapu was validated by Social Welfare and Sports Department at Mantralaya. The petitioner Charuseela submitted various other documents of her sister, brother and cousins in support of her claim of being Mahadeo Koli, but in spite of the voluminous evidence, the Committee has wrongly rejected the claim of the petitioner. It is further submitted by the learned counsel for petitioner that during the pendency of the petition, son of

Rajendra Bapu Chavan, Pranav, and his cousin Siddharth Jitendra Chavan had applied for validation of their caste certificate and when the same were invalidated, they had filed Writ Petition No.1134/2010, in which this Court considered the caste of Sagar Jitendra Chavan, the brother of Pranav and son of Rajendra Bapu Chavan, in whose favour caste validity had been issued and allowed the petition.

2. Counsel for petitioner submitted that, when this petition was filed, the petitioner was studying and pending hearing and disposal of this Writ Petition, prayer "C" was approved and the operation and execution of the impugned judgment and order of the Committee, dated 9.5.2001 was stayed. After completion of her studies, she had applied and was appointed by added respondent No.4 as Planning Assistant on 2.7.2012. The respondent No.4 insisted for caste validity and terminated the services of the petitioner w.e.f. 5.1.2013 vide termination order dated 4.1.2013. The counsel submits that, the termination order needs to be quashed.

3. It has been argued by the learned counsel for the Committee that the Committee has gone into all the relevant material which was placed before it. It considered the certificates issued in favour of petitioner Charusheela, her sister

Nilima, her brother Chetan as well as her father Vilas. The Committee also considered the certificates issued in favour of the children of Ramdas Vithal Chavan and Devidas Vithal, the uncles of petitioner. The Committee had called for Vigilance enquiry, which enquiry revealed that Vilas Vithal Chavan, the father of petitioner had sister Indu, brother Ramdas, brother Devidas and sister Vimal. Grandfather of petitioner namely Vithal Vedu Chavan had brother Daulat Vedu and Mukunda Vedu. Bapu was son of Daulat Vedu. The Vigilance enquiry revealed that the school records of grandfather Vithal Vedu, father of petitioner Vilas Vithal and his brothers and sisters as well as Mukunda Vedu revealed their caste recorded as Koli or Suryawanshi Koli. According to the learned counsel, looking to this record which was of period 1908 to 1941 and thus prior to 1950, the record of cousin brothers and other relatives subsequent to 1950 was rightly discarded by the Committee. The counsel submitted that, the validation certificate issued in favour of Rajendra Bapu Chavan was in view of order dated 14.8.1981, passed in Appeal to the Ministry. The order in appeal does not reveal any reasons given for allowing the same when the Director of Social Welfare had rejected the caste claim of Rajendra Bapurao Chavan. The learned counsel submitted that the order in favour of Bapu Daulat Chavan in Writ Petition No.3187/1994 was based on the

order in favour of son Rajendra Bapurao Chavan. Till that time, the judgment of Madhuri Patil Vs. Additional Commissioner ...(AIR 1995 SC 94) had not been enforced requiring establishment of vigilance cell. In the subsequent period, vigilance cell came into existence and because of the vigilance cell, the truth came out revealing school entries pre-1950 only as Koli and not Mahadeo Koli. The counsel submitted that, the Committee has passed a reasoned order and answered all the contentions which were raised by the petitioner giving valid reasons and the order needs to be maintained. The Committee not only considered the old record but also considered the affinity and did not answer the same in favour of the petitioner. The counsel submitted that, the petition deserves to be dismissed.

4. The respondent No.4 has filed affidavit-in-reply and it has been argued for the respondent No.4 that, when interim relief in terms of prayer clause (C) was passed in favour of the petitioner, she was taking education. Subsequently, she applied for appointment to post reserved for S.T. category. At that time, she did not disclose that her tribe claim was already invalidated by the Scrutiny Committee and that the Writ Petition is filed and interim order is passed. In the appointment order, it was specifically mentioned in clause (9) that since the appointment of

the petitioner is against reserved category, it is necessary to submit validity certificate within six months. The Government has also issued resolution dated 12.12.2011 to immediately terminate service of candidates whose validity claim has been rejected. It is argued that, the petitioner did not submit caste validity certificate and at the time of appointment order suppressed the fact that her claim has already been invalidated and thus, the respondent rightly issued the termination order dated 4.1.2013.

5. We have considered the submissions canvassed by the learned counsel for the respective parties.

6. We have gone through the record. There is well reasoned order of the Caste Scrutiny Committee. However, learned counsel for the petitioner has placed before us the judgment and order passed by this Court in Writ Petition No.1134/2010. This order was passed on 15.10.2012, during the pendency of the present petition. Perusal of the judgment shows that, in the Writ Petition filed by Pranav Rajendra Chavan and Siddharth Jitendra Chavan, this Court had called file relating to Sagar Jitendra Chavan and during the perusal of file, the Court noticed that validity had been issued in favour of Sagar on

9.4.2007, in which record relating to great grandfather of those petitioners in Writ Petition No.1134/2010 was considered relating to the period 1914. Based on that, and for reasons recorded, the Writ Petition was allowed. This being subsequent development, was not before the Committee in the present matter. In the present matter, we do not have details and evidence regarding the family tree so as to connect the petitioners of Writ Petition No.1134/2010 and Sagar Jitendra Chavan with Rajendra Bapu Chavan. In this view of the matter, we find it necessary to remit back the matter to the Committee.

7. As regards the claim of petitioner for quashing the termination order dated 4.1.2013, the petitioner has wrongly pleaded in para 9-B that the respondent No.4, vide letter dated 25.9.2012, informed the petitioner that she should get final order from High Court as expeditiously as possible. The affidavit filed by the respondent No.4 and the documents produced disclose that the petitioner suppressed the fact while applying for service that her caste validity claim had already been rejected and secured service suppressing the fact that Writ Petition against invalidation of her caste certificate was pending. Merely because the fact that the judgment and order dated 9.5.2001 of the Caste Scrutiny Committee had been stayed, would not mean that there

was validity in favour of the petitioner or that validity proceedings were pending. There was no reason why the petitioner suppressed the real facts while applying for service. In this view of the matter, we would not invoke our writ jurisdiction to support such petitioner. The claim on this count is rejected.

8. For reasons mentioned :-

- (A) The impugned order dated 9.5.2001 of the Caste Scrutiny Committee is quashed and set aside.
- (B) The petitioner is relegated before the respondent No.2 Committee for scrutiny and verification of her tribe claim. The petitioner shall appear before the Committee on 15.6.2015.
- (C) The petitioner is at liberty to place on record material relating to validity certificates issued in favour of Pranav Jitendra Chavan, Siddharth Jitendra Chavan and Sagar Jitendra Chavan.

The Scrutiny Committee shall call the concerned files and consider the material available in those files and such other material it finds necessary

to examine and take fresh decision in respect of the claim of petitioner whether to reject or accept her claim for validity. The decision be taken expeditiously within nine months from the date of appearance of the petitioner.

(D) Prayer BB requesting to quash termination order dated 4.1.2013 is rejected.

Writ Petition is partly allowed accordingly.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)

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