

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.679 OF 2014

Vaishali Dube

... Petitioner

Vs.

State of Maharashtra & Ors.

... Respondents

Mrs.Helen Koli Mandlik i/b R.K. Mendadkar for the Petitioner
Mr.Vikas Mali, Assistant Government Pleader, for Respondent Nos.1 & 2

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 3rd MARCH, 2015

P.C.:

By this petition, the petitioner seeks a direction to the respondent No.3 Zilla Parishad to forthwith withdraw the order of termination dated 27.12.2013 and reinstate the petitioner on the post of the assistant teacher. The petitioner also seeks a direction to the scrutiny committee to make a copy of the order dated 17.12.2009, invalidating the caste claim of the petitioner available, to the petitioner at the earliest.

The petitioner claims to belong to the Rajput Bhamta caste which falls in the Vimukta Jati. The petitioner was appointed as a Shikshan Sevak by the respondent No.3 Zilla Parishad by an appointment order dated 11.7.2004. The caste claim of the petitioner was sent to the

scrutiny committee for verification. According to the petitioner, the petitioner was called by the scrutiny committee for hearing and thereafter, the petitioner did not hear anything from the scrutiny committee. It is the case of the petitioner that without issuing any show-cause notice to the petitioner, by the impugned order of termination dated 27.12.2013, the services of the petitioner were terminated on the ground that her caste claim was invalidated. According to the petitioner, the services of the petitioner could not have been terminated without issuance of a show-cause notice to the petitioner. So also, according to the petitioner, the scrutiny committee could not have decided the matter without issuing a show-cause notice to the petitioner. It is stated that despite the efforts of the petitioner, the scrutiny committee did not supply a copy of the order invalidating the caste claim of the petitioner, to the petitioner. In the aforesaid set of facts, the petitioner has approached this Court, seeking the aforesaid relief.

On hearing the learned Counsel for the parties and on perusal of the affidavit in reply filed on behalf of the respondent scrutiny committee and the Zilla Parishad, it appears that the petitioner has not approached this Court with clean hands. It appears from the affidavit in reply filed on behalf of the scrutiny committee that the scrutiny committee had

invalidated the caste claim of the petitioner after issuance of the mandatory notice and after following the due procedure. The order dated 17.12.2009, invalidating the caste claim of the petitioner was despatched to the petitioner by Registered Post Acknowledgement Due. The acknowledgement receipt is annexed to the affidavit in reply and marked as annexure 1. It is apparent from a perusal of the acknowledgement receipt that it was received by one of the members of the family of the petitioner. It is stated on behalf of the petitioner that the signature on the acknowledgement receipt is not of her brother and hence, it cannot be said that the petitioner has received the order dated 17.12.2009 by the registered post. The submission made on behalf of the petitioner is not worthy of acceptance. We find no reason for the scrutiny committee to prepare a false record in respect of the receipt of the order of the scrutiny committee dated 17.12.2009 by the petitioner. It appears that despite the receipt of the order invalidating the caste claim, the petitioner continued to work as an assistant teacher with the Respondent No.3 Zilla Parishad till the Zilla Parishad terminated her services by the impugned order of termination. It appears that the petitioner has deliberately concealed the fact in regard to the invalidation of her caste claim to remain in service of the respondent No.3 for a longer time, though it appears that the petitioner had knowledge about the invalidation of her caste claim. It is also

necessary to note that the caste claim of the brother of the petitioner was invalidated and he had filed Writ Petition No.3694 of 2012. The said Writ Petition was dismissed by this Court on the ground that the caste claim of the sister of the petitioner's brother was invalidated. The order in Writ Petition No.3694 of 2012 is annexed to the affidavit in reply of the scrutiny committee and marked as exhibit 5. It is now canvassed on behalf of the petitioner that the rejection of the caste claim of the petitioner was not considered in Writ Petition No.3694 of 2012 but the rejection of the caste claim was in respect of the petitioner's real sister . We do not appreciate this submission. Even if it is assumed that the caste claim of the petitioner's real sister was invalidated, it is clear that the caste claim of the petitioner, her sister and her real brother are invalidated by the same scrutiny committee. This Court has already expressed in Writ Petition No.3694 of 2012 that there is no reason to differ from the opinion expressed by the Scrutiny Committee while invalidating the caste claim of the petitioner therein.

The petitioner could have secured the order of the Scrutiny Committee by making an application under the Right to Information Act if it was really not supplied to her. However, as observed hereinabove, we find that the petitioner had received the order that was despatched by the

Committee by Registered Post Acknowledgement Due. The Zilla Parishad rightly terminated the services of the petitioner due to invalidation of her caste claim. Since we do not find any fault with the order of the Zilla Parishad, terminating the services of the petitioner, the petition is liable to be dismissed.

The petition is dismissed as such with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)