

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

Writ Petition No.86 of 2015

*(Shoaib Raza Quiser Ali Bismilla Shaha .vs. State of Mah., through the Secretary, Deptt. Of
Social Welfare, Mantralaya, Mumbai and Ors.)*

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ.

DATE : 21.4.2015.

Heard Mr.V.R.Choudhari, learned Counsel for the petitioner and Mr.A.M.Deshpande, learned A.G.P. for respondent nos. 1 and 2. Nobody appears for respondent nos. 3 and 4, though they are served.

This Court has, on 9.2.2015, granted ad interim relief in terms of prayer clause (3) of the petition and thereby the studies/education of the petitioner has been protected.

Mr.V.R.Choudhari, learned Counsel for the petitioner points out that the caste claim of the petitioner as belonging to 'Chapparband' (V.J.) has been found invalid without looking into the validities given to his blood relatives on the conclusion that relationship with them has not been established. The learned Counsel submits that, on affidavit family tree demonstrating the relation was produced and there was no other material to doubt it.

In addition, the learned Counsel also invites our attention to the impugned order passed by respondent no.2/Committee to show that though it should have been

signed by three members, the Member/Secretary has not signed it. He invited our attention to pleadings in this respect as contained in the Writ Petition to urge that as respondent no.3 did not agree with other members of the Committee, he was not permitted to sign.

Mr.Deshpande, learned A.G.P. relies upon the reply/affidavit and on the records of respondent no.2/Committee.

However, after hearing Mr.Deshpande, learned A.G.P. and after perusal of the records, we find that the petitioner has come up with a case that the said Member/Secretary had refused to sign. The reasons therefor are not recorded by the remaining two Members or even by the said Member-Secretary.

The order, therefore, is not passed by all three Members. Application of mind by the third member (Member-Secretary) is not apparent. If he was not agreeing with the findings recorded by other two members, it was open to him to write his separate order. He could have also indicated the points of difference for reaching different opinion. That has not been done. We, therefore, cannot say that the order has been passed by majority. As such, the impugned order dt.29.10.2014 passed by respondent no.2 is vitiated. Hence, only on that ground, it is quashed and set aside. The proceedings are restored back to the file of Respondent no.2 for passing fresh orders. It is open to respondent no.2/Committee to grant fresh opportunity of hearing to the petitioner and then to proceed further to pass suitable orders. This exercise shall be completed within a period of three months from the date of

communication of this order to respondent no.2.

We direct the petitioner to appear before respondent no.2 for the said purpose on 1.6.2015 and to abide by its further instructions in the matter. Respondent no.2 shall pass fresh orders within three months thereafter.

Interim orders passed by this Court to continue till then and shall be subject to it.

The Writ Petition is, thus, partly allowed and disposed of. No costs.

JUDGE

JUDGE

**jais*