

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

Writ Petition No.2802/2014

Shaikh Ashif Nurshah Sheikh Vs. State of Maharashtra and others.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Shri V.R. Choudhari, Advocate for the petitioner.
Ms. B.H. Dangre, Advocate for the respondent nos.1
& 2.

CORAM: SMT. VASANTI A. NAIK &
A.M. BADAR , JJ.

DATED: APRIL 6, 2015.

Heard.

By this petition, the petitioner impugns the order of the Scrutiny Committee dated 16.07.2013, invalidating the claim of the petitioner of belonging to "Chhapparband", which falls in 'Vimukta Jati'.

It is stated on behalf of the petitioner that the two members of the Scrutiny Committee were not justified in invalidating the caste claim of the petitioner, when the vigilance report supported the claim of the petitioner and the same Scrutiny Committee had validated the caste claim of the real cousin brother of the petitioner and the son of the cousin brother. It is stated that the documents on record clearly show that the petitioner belongs to Chhapparband Jati, however, the two members of the Scrutiny Committee have illegally

invalidated the caste claim without giving due weightage to the caste validity certificate issued in favour of the near relatives of the petitioner. It is stated that the Scrutiny Committee ought to have validated the caste claim, specially when the vigilance report favoured the claim of the petitioner of belonging to Chhapparband Jati. It is stated that one of the members of the Committee had held that the petitioner belongs to Chhapparband Jati, whereas the two other members have invalidated the tribe claim.

Ms. Dangre, the learned counsel for the respondent nos.1 and 2 supported the order of the Scrutiny Committee and submitted that the petitioner did not prove his affinity to Chhapparband Jati and the two members of the Committee have rightly invalidated the claim of the petitioner of belonging to Chhapparband Jati in the absence of cogent evidence. It is stated that the documents tendered by the petitioner did not establish that the petitioner belongs to Chhapparband Jati. It is, however, fairly admitted on behalf of the respondent-Committee that the Scrutiny Committee has validated the caste claim of the real cousin brother of the petitioner and the son of the cousin brother.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the two members of the Scrutiny Committee were not justified in holding that the petitioner does not belong to Chhapparband Jati. It

appears that in several documents tendered by the petitioner the caste was recorded as 'Chhapparband'. The Vigilance Cell had conducted a proper vigilance enquiry and had tendered a report in favour of the petitioner's caste claim. So also, the petitioner had produced the caste validity certificate issued in favour of the real paternal cousin of the petitioner and the son of the paternal cousin. When the near blood relatives of the petitioner were granted the caste validity certificate, in view of the law laid down by this Court in the judgment reported in 2010 (6) Mh.L.J. 401 (Apoorva d/o Vinay Nichale Vs.Divisional Caste Certificate Scrutiny Committee No.1, and others), it was necessary for the Committee to grant the caste validity certificate in favour of the petitioner also. We do not find that the two members of the Scrutiny Committee have rightly rejected the caste claim of the petitioner by recording cogent reasons. The Scrutiny Committee has not given due weightage to the caste validity certificates issued in favour of the near blood relatives of the petitioner and also the report of the Vigilance Cell which supports the claim of the petitioner. In the facts of the case, the two members of the Committee appear to have committed an error in rejecting the caste claim of the petitioner, when the third member was clearly of the view that the petitioner belongs to Chhapparband Jati.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside. The

respondent no.2-Scrutiny Committee is directed to issue a validity certificate that the petitioner belongs to “Chhapparband Jati” which is recognized as Vimukta Jati within a period four weeks.

Order accordingly. No costs.

JUDGE

JUDGE

Ambulkar