

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

WRIT PETITION NO. 698/2014.

Abusiddique Suleman Chaus

VERSUS

Scheduled Tribe Certificate Scrutiny Committee, Amravati and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B. P. DHARMADHIKARI
& A.S.CHANDURKAR, JJ.

DATED : JANUARY 29, 2015.

Heard Shri R.D. Karode, learned Counsel
for the petitioner, Shri K.P. Sadavarte, learned Counsel
for respondent no. 1 and Shri M. Bhute, learned
Counsel for respondent nos. 2 and 3.

Perused order of this Court dated
22.12.2014. This Court has then observed that the
Scrutiny Committee should have called for original
school records of Zilla Parishad Udru Primary School,

Dahihanda.

Perusal of the order shows that original records were made available on that date before this Court and concerned headmaster was present with those records, however, the Court has not recorded any finding after perusal of those records.

After hearing the learned counsel for respective parties, it appears that records were in Urdu and Court felt that those record are required to be perused by the Scrutiny Committee itself.

As per the law, if any finding of fact is to be recorded, the first Authority is the Scrutiny Committee, as such this Court rightly on 22.12.2014 did not record any finding on the strength of said original documents.

During hearing, Shri Sadawarte, learned counsel submitted that copies of the original school records made available from the said register show certain inconsistencies between the said documents on one hand and the finding of vigilance cell on the other. According to him, vigilance cell has not reported correctly. He therefore, requested this Court to allow

the Scrutiny Committee to obtain fresh vigilance report.

However, the report submitted by the vigilance cell authorities is not binding on the Scrutiny Committee. The Scrutiny Committee has to arrive at its own finding. The original school records can be looked into by the Scrutiny Committee and thereafter, it can in that background consider the report of the vigilance cell.

In present matter, the petitioner has also complained of denial of opportunity of hearing. Earlier Writ Petition filed by him vide Writ Petition No. 6272/2013, for expeditious consideration of caste claim, was allowed on 28.11.2013. He was directed to appear before the Scrutiny Committee on 14.01.2014. Impugned order has been passed by the Committee before that i.e. on 07.01.2014, itself.

Shri Sadavarte, learned Counsel appearing for respondent Scrutiny Committee, however, has relied upon order-sheet maintained by the Scrutiny Committee. He submits that the petitioner was appearing regularly before the Scrutiny Committee.

He appeared on 20.11.2013, and even thereafter, he participated in the hearing and orders have been passed after giving full opportunity.

This controversy need not detain us more from adjudication in the present facts. As the Scrutiny Committee itself found that there is some inconsistency in the original record maintained by the Zilla Parishad Urdu School, Dahihanda and report of vigilance cell authorities about contents of those documents, it is obvious that the petitioner needed to be given opportunity before proceeding further in the matter.

We therefore, direct the Scrutiny Committee to call for those originals and to verify the same in presence of the petitioner and to give him necessary opportunity in accordance with law.

We direct the petitioner to appear before the Scrutiny Committee on 02.03.2015. On that date, the Committee shall secure presence of the headmaster of the above mentioned school with original records. The Committee shall thereafter, complete verification in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled

Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, (Act No. 23 of 2001), as early as possible and in any case within a period of next six months.

Only to facilitate this exercise to be completed, order dated 07.01.2014 is hereby quashed and set aside. Writ Petition is, thus partly allowed and disposed of. No costs.

JUDGE

JUDGE

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