

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1388 OF 2014

Rajkumar Prem Kanojiya -vs- State of Maharashtra and others,

WRIT PETITION NO.1615 OF 2014

Ishant Prem Kanojiya -vs- State of Maharashtra and others

AND

WRIT PETITION NO.1621 OF 2014

Neha D/o Prem Kanojiya -vs- State of Maharashtra and others

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

Court's or Judge's Orders.

Mr.N.R.Tekade, counsel for the petitioners.
Ms T.H.Udeshi, counsel for R-1-State.
Mr. K.PSadavarte, counsel for R-2.
Mr. Abhijit Deshpande, counsel for R-3 in W.PNos.1388 & 1621 of 2014.
Mr. Abhay Sambre, counsel for R-4 in W.PNo.1388 of 2014.

CORAM : SMT.VASANTI A. NAIK &
PRASANNA B. VARALE, JJ.

DATE : 08.07.2015.

Since the issue involved in these petitions is identical and since they arise from almost identical orders passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, they are heard together and are decided by this common order.

The three petitioners are siblings and claim to belong to 'Dhoba Scheduled Tribe'. The petitioners were admitted to M.B.B.S. Degree Course, B.H.M.S. Degree Course and Engineering Degree Course, on the basis of their claim of belonging to Dhoba Scheduled Tribe. The caste certificates of the petitioners were sent by the respective educational institutions to the Scrutiny Committee, Amravati for verification. By separate orders passed by the Scrutiny

Committee, the caste claim of the petitioners was rejected. The Scrutiny Committee invalidated the caste claim of the petitioners and confiscated their caste certificates. The petitioners have challenged the separate orders passed by the Scrutiny Committee, Amravati in these writ petitions.

On hearing the learned counsel for the parties and on a perusal of the impugned orders, as also the original record and the proceedings, which is produced in the Court today, it appears that there is no scope for interference with the impugned orders, in exercise of the writ jurisdiction. The Scrutiny Committee found that in various old documents the caste of the near relatives of the petitioners was recorded as “Dhobi” and not “Dhoba”. It was found by the Vigilance Cell and also by the Scrutiny Committee that the petitioners had based their claim on fabricated documents. The Vigilance Cell compared the copies of some old documents tendered by the petitioners with the originals to find that the copies of the old documents produced by the petitioners before the Scrutiny Committee were tampered. It was found that the caste certificate was never issued to petitioner Rajkumar Kanojiya by the Tahsildar, Akola. Also, it was found that the documents mentioned at Sr. Nos.13, 14 and 16, which are the tax receipts, were fabricated. The Akola Municipal Corporation had issued a letter to the Scrutiny Committee, dated 16/09/2008 stating that the said tax receipts were not issued by their office. Though the petitioners sought permission to call the Officer of the Akola Municipal Corporation for cross-examination and the Officer was cross-examined, nothing was brought out from the cross-examination of the Officer in support of the case of the petitioners. It was found from the evidence of the Headmaster, Corporation Primary School at Akola and the Record Keeper from the office of the Commissioner, Akola that the entries in the original record

and the entries in the copies of the said record that were produced by the petitioners before the Scrutiny Committee were different. The Scrutiny Committee found that the entries in the original record and the copies tendered by the petitioners were in different handwriting and in different ink. The Scrutiny Committee found, on an appreciation of the material on record that the petitioners had tendered fake and fabricated documents to unjustly claim the benefits meant for the Dhoba Scheduled Tribe. Though the petitioner had relied on certain documents in respect of Ramdas Kanojiya, the Scrutiny Committee found that the petitioners had failed to establish their relationship with him. Also, it was found by the Scrutiny Committee that in the document at Sr.No.30, which is a copy of the *Bhadeputta* of the year 1968, the name Oriram Jangali Dhoba was substituted instead of the name Ganpat Lingya Avadnyalkar. The Committee found on a perusal of the original register and the copies of the documents produced by the petitioners that the petitioners had gone to the extent of substituting the name of one person by another, the another being the grandfather of the petitioners. It is clear that the Scrutiny Committee found that the entry in respect of Ganpatrao was fraudulently shown to be the entry in respect of Oriram. Though the petitioners were given a fair opportunity of hearing before the Scrutiny Committee and also were permitted to cross-examine some persons from the offices of the local authorities to disprove the report of the Vigilance Cell, the petitioners were not able to disprove the report of the Vigilance Cell. Since it was found by the Vigilance Cell and the Scrutiny Committee that the petitioners had played fraud on the Committee while seeking validation of their caste claim and since the findings recorded by the Scrutiny Committee are based on a proper appreciation of the material on record, the findings cannot be

lightly interfered with, in exercise of the writ jurisdiction. Since fraud has been practiced by the petitioners on the Scrutiny Committee for illegally seeking the benefits meant for the Dhoba Scheduled Tribe, the petitioners would not be entitled to protection of their education in view of the law laid down by the Full Bench of this Court in the judgment, reported in 2015 (1) Mh.L.J. 457 (Arun Sonone v. State of Maharashtra and others).

In the result, the writ petitions fail and are dismissed with no order as to costs.

At this stage, the learned counsel for the petitioners seeks the continuation of the interim relief by a period of four weeks.

The learned counsel for the respondents strongly oppose the prayer made by the counsel for the petitioners. It is stated that this is a case of absolute fraud, fabrication and tampering of documents. It is stated that in the circumstances of the case and in view of the settled position of law that protection cannot be granted in case of fraud, this Court may not show indulgence.

Considering the circumstances of the case and the strong opposition from the respondents to the prayer made by the counsel for the petitioners, the prayer is rejected.

Order accordingly.

JUDGE

JUDGE