

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

Writ Petition No.1703/2014

Mohd. Mohib Ur Rehman S/o Mohd. Riyaz Ur Rehman Vs. State of Mah. and others.

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 &
A.P. Bhangale, JJ**
DATE : 16th February, 2015.

We have heard learned Advocate Gaikwad for the petitioner and learned AGP Shri Fulzele for the respondent nos. 1 and 3.

Caste claim of the petitioner as belonging to "Naikwadi" (V.J.) (A) has been invalidated on the ground that he could not produce any old genuine document.

The petitioner has relied upon validity given to his cousin on 3rd of March, 2003. That validity is disregarded because of a finding of interpolation in old document dated 30th of July, 1941. The petitioner has relied upon school records of his grandfather – Sheikh Rehman Sheikh Amir to show that there the caste of grandfather has been recorded as Musalman (Naikwadi).

The petitioner was given an express show cause notice on 17.04.2012 inviting his attention to the fact that original register reveals

difference in handwriting and ink and hence entry of his grandfather was doubtful. The petitioner submitted his reply to that show cause notice on 10th September, 2013 and did not dispute either change in handwriting or change in ink. It is, in this background, that Committee has invalidated the caste claim.

The reason given for disregarding validity given to the cousin Mohd. Matin Ur Rehman are not sufficient. The Committee does not say that the said certificate of grandfather was used while giving validity to said cousin. It also does not say that the said certificate was then suppressed by Mohd. Matin. Thus, impact, of allegedly interpolated document on caste-claim of said cousin has not been evaluated at all.

Merely because, there is some change in handwriting or change in ink, an inference that caste claim is fraudulent, cannot be drawn. When validity was given to a cousin on 3rd of March, 2003 i.e. after coming into force of the Act No.23 of 2001, the Committee ought to have seriously considered the said validity. The petitioner also should have assisted the Committee in more effective manner.

In this situation as we find that validity given to the cousin has not been properly looked into and impact of the entry pertaining to the grandfather has not been evaluated, we set aside the order dated 4th February, 2014.

We direct the petitioner to appear before the respondent no.3-Committee on 6th April, 2015. The Committee shall attempt to complete verification in accordance with law within next four months.

It is not in dispute that though this Court granted *status quo* in relation to the employment of petitioner on 2nd April, 2014, he has been discontinued from services. As such, entitlement of petitioner to relief of reinstatement is kept open and shall be considered after adjudication by the Scrutiny committee.

The writ petition is thus partly allowed and disposed of. No costs.

JUDGE

JUDGE

Ambulkar