

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

WRIT PETITION NO.2635 OF 2014

[Ku. Sonam Kanhaiyalal Goyal .vs. Scheduled Caste, Vimukta Jati and one]

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

Court's or Judge's orders

Shri P.S. Patil, counsel for the petitioner,
 Shri A.S. Fulzele, Additional Government Pleader for the respondents.

.....

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

DATED : JULY 13, 2015.

By this petition, the petitioner challenges the order of the scrutiny committee, dated 21.4.2011 invalidating the claim of the petitioner of belonging to 'Mochi' Schedule Caste.

The claim of the petitioner was referred to the scrutiny committee for verification. The scrutiny committee considered the documents tendered by the petitioner to find that none of the documents pertain to pre-independence era and, therefore, they did not have probative value. Also, the scrutiny committee found that in several documents, the caste was not inserted in the caste column. It was observed by the scrutiny committee that the documents tendered by the petitioner for substantiating her caste claim were of recent origin and hence much weightage could not have been given to the said documents, for validating the caste claim. The committee found that though the petitioner had tendered two documents of pre-independence era in respect of her so called cousin uncles namely Jivan Bhairu and Manik Shankar, the petitioner had utterly failed to prove her relationship with the aforesaid persons. The tribunal found that the documents in respect of Jivan Bhairu and Manik Shankar could not have been considered for proving their residence in the State of Maharashtra before 1950, as the petitioner had failed to prove her relationship with them.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order in exercise of the writ

jurisdiction. We had called for the record and original proceedings and the learned AGP has tendered the same in the court today for our perusal. It is necessary to note that the petitioner has filed four genealogical trees before the committee. In the first genealogical tree filed on 24.6.2009, the petitioner has not made any reference of Jivan Bhairu and Manik Shankar. In the second genealogical tree filed by the petitioner on 4.3.2010, though the petitioner has made a reference to Manik Shankar, the petitioner has not made any reference to Jivan Bhairu. If Jivan Bhairu and Manik Shankar are both related to the petitioner as cousin uncles, the name of Jivan Bhairu ought to have been included in the family tree. A third genealogical tree is filed by the petitioner on 9.9.2010. In the said genealogical tree, the petitioner surprisingly shows the names of both Jivan Bhairu and Manik Shankar. Again a 4th family tree is tendered by the petitioner before the scrutiny committee on 28.12.2010. It is not the case of the petitioner that the first and the second family trees submitted by the petitioner had some mistakes and, therefore, the 3rd and 4th family trees were submitted by the petitioner. We find a great variance between the family trees submitted by the petitioner before the scrutiny committee on all four occasions. In the aforesaid circumstances, it cannot be said that the scrutiny committee committed any error in holding that the petitioner had failed to prove her relationship with Jivan Bhairu and Manik Shankar. The documents in respect of Jivan Bhairu and Manik Shankar were rightly discarded by the scrutiny committee, though they were of pre-independence era, as the petitioner had failed to prove her relationship with Jivan Bhairu and Manik Shankar. The tribunal found, on a proper appreciation of the material on record, that the petitioner could not have succeeded in proving her caste claim on the basis of comparatively recent documents. We do not find any reason to interfere with the impugned order in exercise of the writ jurisdiction.

In the result, the writ petition fails and is dismissed, with no order as to costs.

JUDGE

JUDGE