

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

WRIT PETITION NO.2286 OF 2014

(Ku. Vrushali d/o Dilipsingh Solanki vs. State of Maharashtra and others)

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

Shri P.S. Khubalkar, Advocate for petitioner.

Shri N.R. Patil, Assistant Government Pleader for
respondent nos. 1 and 2.

Shri J.Y. Ghurde, Advocate for respondent no.3.

Shri A.L. Deshpande, Advocate for respondent no.4.

CORAM : B.P. DHARMADHIKARI AND
 P.N. DESHMUKH, JJ.

DATED : OCTOBER 7, 2015

Heard Adv. Khubalkar for petitioner.

The order dated 21/1/2014 (11/4/2014)
of Scrutiny Committee invalidating caste claim of
petitioner as belonging to 'Rajput Bhamta' (VJ-A)
has been questioned before this Court.

Without prejudice to his other contentions
in the matter, Adv. Khubalkar submits that a cousin
of petitioner on paternal side, namely, Summersingh

s/o Virendrasingh Patil has been given validity by Pune Scrutiny Committee on 3/1/2009 and that validity has not been appropriately evaluated. He points out that father of petitioner Shri Dilipsingh gave an affidavit in August 2010 itself to Scrutiny Committee substantiating this relationship and thereafter vigilance enquiry was conducted. Vigilance Authorities did not doubt the relationship. The Scrutiny Committee has erroneously refused to go by affidavit. He further submits that petitioner is now taking education in final year of B.A.M.S. and this Court has protected her education while issuing notice in writ petition on 6/5/2014.

Shri Patil, learned Assistant Government Pleader for respondent nos.1 and 2, submits that burden is upon the petitioner to substantiate her caste claim and by filing of affidavit, relationship cannot be presumed to be established. As relationship is not established and other documents are not filed, the Scrutiny Committee has rightly recorded a finding against petitioner. He, therefore, prays for dismissal of writ petition.

Adv. Ghurde for respondent no.3 and

Adv. Deshpande for respondent no.4 state that the present issue is between Scrutiny Committee and petitioner.

With the assistance of learned Assistant Government Pleader and Adv. Khubalkar, we have perused the impugned order. The Scrutiny Committee refused to accept the affidavit of Shri Dilipsingh, father of petitioner, only on the ground that it is not sufficient in law. Why an affidavit properly sworn by a citizen cannot be looked into as evidence is not disclosed. The affidavit is dated 18/8/210 while vigilance report is dated 16/5/2011. Thus, the statement made in the affidavit could have been looked into by Vigilance Cell Authorities. That has not been done. During home enquiry, father of petitioner Shri Dilipsingh is found to be employee of Railway Department. There is no verification about his caste as recorded in Railway records. We find that even affinity test has not been applied by the Scrutiny Committee.

In this situation, we quash and set aside the impugned order and place back matter before respondent no.2 Committee for taking fresh decision

in accordance with law. The Scrutiny Committee shall obtain vigilance report on relationship of petitioner with Summersingh and also on verification of caste claim of father of petitioner or other blood relatives.

The petitioner shall appear before Scrutiny Committee for the said purpose on 17/11/2015 and Scrutiny Committee shall attempt to complete verification in next four months. Till then, the interim order protecting education of petitioner shall continue. The writ petition is thus partly allowed and disposed of. No costs.

JUDGE

JUDGE

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