

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

WRIT PETITION NO. 2870 OF 2014

(Anirudha s/o Shamsundar Parihar vs. The Divisional Caste Certificate Scrutiny Committee,
No. 2, Akola thr. its Additional Commissioner/ Member)

Office 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 &
P.N. DESHMUKH, JJ.
SEPTEMBER 09, 2015.**

Heard Shri Kalwaghe, learned counsel for the petitioner and Shri Rao, learned AGP for the respondent.

This Court has in Writ Petition No. 2665 of 2012 filed by present petitioner appreciated the controversy and on 26.06.2013 remanded the matter to Respondent No. 1 – Scrutiny Committee with the following observations :

“It is not necessary for this Court to find out whether recording of reasons is or is not necessary for issuing validity. In present case that has not been done however, relationship between petitioner and Arun is not in dispute. Once that has been brought on record that Arun is relative on paternal side, grant of validity to him needed due evaluation. The document on the basis of which validity was given to Arun by Scrutiny Committee, therefore, ought to have been looked into. The Committee has not attempted to find out whether Arun was given validity on the basis of proper documents or not. If

Arun was given validity as he produced all documents and Committee was satisfied about genuineness of his caste claim, benefit of that adjudication needs to be extended to present petitioner. If the Committee finds that Arun was not given validity after following due procedure, the Committee can for reasons to be recorded in writing take a different view. Here that has not been done, hence we quash and set aside the order dated 31st March 2012. Matter be placed before the respondent – Committee for taking fresh decision. We direct petitioner to appear before the respondent – Committee on 22nd July 2013 and to abide by its further directions in the matter. Committee shall attempt to take further decision in the matter in accordance with the provisions of Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes And Special Backward Category (Regulation of Issuance And Verification of) Caste Certificate Act, 2000 (Act 23 of 2001) as early as possible and in any case within a period of 8 months.”

The matter has been thereafter looked into by the Scrutiny Committee and on 14.03.2014 the impugned order has been passed. The impugned order considers validity given to the relative on paternal side viz., Arun in the same words and on the same lines as was done by said

Committee in its earlier order dated 31.03.2012. Thus, though this Court specifically pointed out the perspective in which the validity given to Arun should have been appreciated, that exercise has been avoided. With the result, the petitioner is required to file this petition again.

In the affidavit in reply filed vide Stamp No. 5681 of 2015, the Committee has pointed out that it has issued a notice of hearing to said Arun. That notice of hearing is dated 05.12.2014. The notice mentions that the validity given to Arun was tendered by the present petitioner to substantiate his claim for grant of validity as Rajput Bhamta. The Committee has invalidated the caste claim of the petitioner and, therefore, the Committee wanted to verify whether Arun has been given caste validity after due verification.

The learned AGP submits that the Committee has attempted to serve said notice of hearing on Arun but it could not succeed and Arun has not appeared though 2 – 3 notices have been sent.

We find substance in the contention of the petitioner that the petitioner is being harassed in this matter. If the Committee did not have anything with it to doubt the validity given to Arun, the validity also needed to be given to the petitioner. The Vigilance report was in favour and the petitioner has accepted it before the Scrutiny Committee, As such, the Committee by ignoring validity given to Arun, could not have taken any decision.

In the portion of earlier judgment reproduced supra, this Court has pointed out the circumstances in which

the validity of Arun could have been ignored by the Committee. The Committee has not conducted any inquiry in that direction.

We, therefore, find the impugned order dated 14.03.2014 bad and unsustainable. It is accordingly quashed and set aside. The respondent is directed to give validity to the petitioner as belonging to Rajput Bhamta (Vimukta Jati -A) as per law. Needless to mention that the said validity given to the petitioner shall be subject to further orders of Scrutiny Committee in the proposed investigation into the validity given to Arun Motisingh Parihar.

Writ Petition is thus partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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