

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

WRIT PETITION NO. 4268 OF 2012

(Ku. Kanchan Janrao Shirpurkar vs. Joint Commissioner & Vice-Chairman, Scheduled Tribe
Certificate Scrutiny Committee & Ors.)

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 &
S.B. SHUKRE, JJ.
APRIL 15, 2015.**

Heard Shri Narnaware, learned counsel for the petitioner, Shri A.M. Deshpande, learned counsel for respondent No. 1 and Mrs. Bodade with Shri Mishra, learned counsel for respondent Nos. 2 & 3. Nobody appears for respondent No. 4 – employer.

This Court issued Rule on interim relief and notice for final disposal in the matter on 07.09.2012. Full Bench of this Court has decided the controversy thereafter and said judgment in the case of Arun Vishwanath Sonone vs. State of Maharashtra & Ors., is reported at 2015 (1) Mh.L.J. 457 (FB).

In the light of said verdict and as the petitioner has joined employment on 29.11.2001 i.e. after coming into force of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, (Act No. 23 of 2001), Shri Narnaware, learned counsel has chosen to

address the Court on merits of the controversy. He submits that the documents of the petitioner record her caste as Dhoba. The Vigilance authorities found caste of father and other relatives to be *Varthi*. However, during field inquiry, Vigilance authorities did not record statement of parents. As such, mandate of Rule 12(5) of the Maharashtra Scheduled Tribes (Regulation of Issuance of Verification of) Certificates Rules, 2003, has been violated. He seeks support from the Division Bench judgment of this Court in the case of Heera d/o Shalikram Mundharikar vs. Scheduled Tribe Caste Certificate Scrutiny Committee & Ors., reported at 2010 (6) Mh. L.J. 274.

Shri Deshpande, learned counsel has produced before this Court original record of Scrutiny Committee. He points out that on 05.08.2011, the Vigilance squad has recorded the statement of father and that fact finds mention in the impugned order also. After receipt of Vigilance cell report, the petitioner was given an opportunity of hearing on 01.11.2011 and on that date she chose not to dispute the correctness of vigilance report. He, therefore, argues that the claim as made is misconceived. He invites attention to the statement of Head Mistress of the School and also observations in the impugned order to show that in original record pertaining to the petitioner, the caste recorded as Dhobi has been altered as Dhoba.

With the assistance of respective counsel we have perused the records. We find that as a matter of fact, statement of father has been recorded on

05.08.2011 and this fact of recording is also looked into in the impugned order by the Scrutiny Committee. The records also show that on 01.11.2011, the petitioner chose not to dispute correctness of Vigilance inquiry report. That fact is also recorded in the impugned order. The Scrutiny Committee also finds tampering in original School record.

In the face of these findings of Scrutiny Committee, it is apparent that the Division Bench judgment mentioned *supra* cannot have any application. Shri Narnaware, learned counsel has, however, submitted that neither Vigilance authorities nor Scrutiny Committee have commented upon the status of her caste *Varthi*. According to him, until and unless there is a finding that it is OBC or SC or ST, the caste claim could not have been invalidated.

The Tribe claim before the Scrutiny Committee was as Dhoba. The documents looked into militate with said claim. As such, it was necessary for the Committee to reach a conclusion that caste *Varthi* as recorded in the documents of ancestors was not a Scheduled Tribe. We, therefore, find no case made out warranting interference

Writ petition is accordingly rejected. No order as to costs.

JUDGE

JUDGE