

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

WRIT PETITION NO.5595 OF 2012

Shalini D/o Ramkisan @ Ramkrushna More

..VS..

**The Divisional Caste Certificate Scrutiny Committee No.2, Akola,
Division Amravati and anr**

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

Court's or Judge's order

**Shri N.B. Kalwaghe, counsel for the Petitioner.
Mrs. K. Joshi, AGP for Respondent No.1.
None appears for Respondent-2.**

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 8, 2015.**

1. The matter was heard yesterday for some time and it came to be adjourned to today. Today, we have heard Shri N.B. Kalwaghe, learned counsel for the petitioner further and learned Assistant Government Pleader for respondent No.1 / The Divisional Caste Certificate Scrutiny Committee, Division Amravati. None appears for respondent No.2 / Employer. However, this Court on 23.11.2012 protected the services of the petitioner and that

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interim order continues to operate even today.

2. The caste claim of the petitioner as belonging to her caste “*Rajput Bhamta*” (Vimukta Jati – A) has been invalidated by order dated 25.9.2012.

3. The petitioner has relied upon the validities given to her blood relatives viz. Shri Sakharam Kondu More, Shri Dattatray Shankar More, Shri Gajanan Shankar More, and Shri Dhananjay Namdeo More.

4. These blood relatives and their validities given were pointed out by the present petitioner to this Court in earlier round of litigation i.e. in Writ Petition No.6201 of 2011. That writ petition has been decided on 13.4.2012. This Court then found that the Scrutiny Committee had ignored the validities given to these four persons on the ground that the validities were

not issued to the blood relation. This Court also found that, when relationship itself was not in dispute and family tree was accepted, the finding was unsustainable. However, after considering entire order then passed on 28.1.2013, the impugned order was set aside and the matter was remitted back to the Scrutiny Committee. Impugned order dated 25.9.2012 was passed thereafter by the Scrutiny Committee.

5. Shri Kalwaghe, learned counsel for the petitioner, has pointed out that in impugned order there is a remark that the petitioner has failed to establish relationship with these four persons. He submits that the validities given to the relatives of maternal side were also pointed out to the Scrutiny Committee.

6. Shri Kalwaghe, learned counsel, has invited our attention to the fact that the caste

claim of the real brother of the petitioner viz. Siddeshwar is also under consideration of the Scrutiny Committee. The order of invalidation dated 23.10.2012 passed in the matter of Siddeshwar was questioned before this Court in Writ Petition No.5597 of 2012. This Court after considering the arguments, based upon the validities given to the blood relation, remanded the matter back to the Scrutiny Committee. After this remark in the matter of Siddeshwar, the Scrutiny Committee has obtained the Vigilance Cell Report and that report has been served upon Siddeshwar. Thereafter, Siddeshwar has furnished his explanation.

7. Shri Kalwaghe, learned counsel, makes a statement that present petitioner Shalini has shown her readiness and willingness to accept that Vigilance Cell Report and explanation furnished by Siddeshwar and that Vigilance Cell

Report can be used in her matter, as well. He submits that the Scrutiny Committee has closed the matter of Siddeshwar for passing orders about 8 – 9 months back and as yet no orders are delivered.

8. Mrs. K. Joshi, learned Assistant Government Pleader, has opposed any intervention by this Court. She submits that the finding that the relationship is not established, is not shown to be erroneous or perverse. She further points out that the arguments, based upon the Vigilance Cell Report in the matter of Siddeshwar, are not borne out from the record of this writ petition and she is not aware of Writ Petition No.5597 of 2012 filed by said Siddeshwar or its disposal on 28.1.2013. She further submits that the caste claim of Siddeshwar may not be pending today.

9. The very same names figured as blood

relatives in order of this Court dated 28.1.2013 in Writ Petition No.5597 of 2012. In fact, after this Court remanded the matter of the present petitioner back on 13.4.2014, the Caste Scrutiny Committee ought to have conducted the enquiry and obtained report on the relationship between four persons mentioned *supra* and Shalini. That has not been done. If Siddeshwar is real brother of the present petitioner, his case and the case of the present petitioner should have been considered together by the Scrutiny Committee. That has also not been done.

10. In this situation, interest of justice will be met with by placing the matter back to the Scrutiny Committee.

11. Shri Kalwaghe, learned counsel, upon instructions states that the petitioner shall, within a period of two weeks from today, file a statement on affidavit before the Scrutiny

Committee accepting the Vigilance Cell Report in the matter of Siddeshwar and explanation submitted by him to it. Thereafter, the Scrutiny Committee can pass suitable orders on merits in both the cases. He also states that necessary additional explanation shall be submitted within the same time.

12. This Course is open, if the Scrutiny Committee has not already passed the order in the matter of Siddeshwar. If such order is already passed, we direct the Scrutiny Committee to consider the Vigilance Cell Report and explanation furnished by the present petitioner as also explanation furnished by said Siddeshwar to that Vigilance Cell Report in accordance with law and pass fresh orders in the matter of Shalini. If such orders are not passed, the Scrutiny Committee can jointly consider the cases of Siddeshwar and Shalini, if it finds that

they are the brother and sister.

13. Accordingly, we direct the petitioner to file her explanation as mentioned *supra* by 27.1.2015. The Scrutiny Committee shall thereafter proceed further in the matter/matters and pass suitable orders either jointly in the case of Siddeshwar or separate order in the case of Shalini within a period of six weeks, thereafter.

14. Needless to mention that the *interim* orders passed by this court on 23.11.2012 shall continue to operate, till then.

15. With these directions, the writ petition is partly allowed and disposed of with no order as to costs.

JUDGE

JUDGE

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