

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

Writ Petition No.6867 of 2013

(Ku. Barkha d/o. Suryanarayan Bimalwar .vs. Vice-Chairman and Joint Commissioner
Scheduled Tribe Certificate Scrutiny Committee, Nagpur)

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

Court's or Judge's orders

Mr.S.R.Narnaware, Adv. for the petitioner.
Mr.Abhijit Deshpande, Adv. for respondent no.1.
Mr.R.J.Kankale, Adv. for respondent no.2.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 21st JANUARY, 2015.

Heard for sometime.

Mr.S.R.Narnaware, learned Counsel for the petitioner has raised several contentions. However, at this stage, we do not find it necessary to go into all.

It is seen from the impugned order of Scrutiny Committee that the caste claim as belonging to 'Mannewar' Scheduled Tribe has been invalidated only because of documents on husband's side. The Scrutiny Committee has found that those documents record the caste as 'Telugu'.

Mr.S.R.Narnaware, learned Counsel submits that the petitioner has relied upon her own documents which recorded caste as 'Mannewar' and also all documents of her father which again recorded the same caste. The learned Counsel states that the efforts made by the Scrutiny Committee to obtain old service record of father failed. Though the family tree on father's side was made available,

the Vigilance Cell Authorities have not looked into it. The learned Counsel further argues that 'Telugu' is a language and not a caste.

Mr. Abhijit Deshpande, learned Counsel appearing for respondent no.1/Committee states that the documents on husband's side were verified and the Vigilance Report was accordingly made available to the petitioner. She was given opportunity of hearing on that report. The petitioner did not state that she has performed any inter-caste marriage and therefore, the documents of her father's side only are to be looked into. The learned Counsel further submits that the efforts of petitioner to demonstrate that 'Telugu' is not a caste but a language again indirectly shows that she accepts that she has been married within caste. He, therefore, prays for dismissal of the petition.

Though the Scrutiny Committee has recorded statement of the petitioner, specifically a question that she has married in the same caste was not put to her. If the consideration by the Scrutiny Committee is perused, it is apparent that they have found document on husband's side which records caste as 'Telugu'. The documents on father's side record caste as 'Mannewar'. 'Mannewar' is a Scheduled Tribe. The Scrutiny Committee has made some efforts to verify 1931 records of father, but those records were not available. The petitioner had, in the year 2006, submitted a family tree on her father's side. No examination of petitioner in relation to the persons named therein or their caste appears to have been conducted. The petitioner has also not submitted any document revealing caste of those relatives.

In this situation, as we find that application of

mind by respondent no.1/Caste Scrutiny Committee is not complete, we set aside the impugned order dt.13.12.2013.

The petitioner shall, within two weeks from today, disclose the caste of the persons whose names are mentioned in the family tree at page no.38 of the petition and submit its copies to the Scrutiny Committee. The Scrutiny Committee shall thereafter proceed further with verification in accordance with the Maharashtra Scheduled Castes, 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 No.XXIII of 2001) and complete it within next eight months.

Subject to this, the interim order granted by this Court on 24.12.2013 shall continue to operate.

The Writ Petition is, thus, partly allowed and disposed of. No costs.

JUDGE

JUDGE