

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO. 229 OF 2002

Ms. Nita d/o Dharamlal Dhanoriya, Aged 18 years, Student, Resident of Pachod, Taluka Paithan, District Aurangabad, at present studying in Mimer Midical College and Hospital, Latur

PETITIONER

V E R S U S

- 1 The State of Maharashtra
- 2 The SC, VJ NT, OBC and Spl. BCs Welfare Caste Certificates Verification Committee (Through Special District Social Welfare Officer and Member Secretary), Aurangabad Division, Aurangabad
- 3 The Dean, MIMER Medical College, Latur
- 4 The Tahsildar and Taluqa Executive Magistrate, Paithan, District Aurangabad

RESPONDENTS

Mr. S.B. Talekar, Advocate for the Petitioner
Mr. V.H. Dighe, A.G.P. for Respondent No.1 – State

**CORAM : A.V. NIRGUDE &
V.L. ACHLIYA, JJ.**

DATE : 4th April, 2016

ORAL JUDGMENT (Per: A.V. Nirgude, J.) :

1. This petition challenges judgment and order dated 29th December, 2001, passed by respondent no.2 - Committee rejecting the petitioner's claim that she belonged to 'Pardesh Bhamta' community, and therefore, was entitled to validity of her caste claim, which is recognized as V.J. (Vimukta Jati).

2. The petitioner placed reliance on two circumstances. We will discuss both of them one-by-one.

The first circumstance is that the petitioner placed reliance on School Leaving Certificates of her father and uncle. Her School Leaving Certificates were of old origin. According to the petitioner, this document showed the caste of the petitioner's father and uncle as 'Pardeshi Bhamta'. The certificates which were produced before the Committee were duplicate true copies, and therefore, Vigilance tried to locate the original document in the School. The School authorities informed that the original record is washed out in an incident of flood during *monsoon* etc. The majority members of the Committee rejected this explanation and held that the relevant document is not available, and therefore, reliance of such document is not tenable. we also hold that the explanation given by the

petitioner and her witnesses on this count is not at all believable. If the original record is lost due to floods, a complaint of which would be made to the higher authorities, they would start inquiry and would try to reconstruct the lost record etc. The Head Master of the School made a statement that after the flood he had made complaint to the authorities, but in-vain. We do not believe the truthfulness of the statement. It is a bald statement without giving details of the flood and loss caused by it etc.

3. Learned counsel for the petitioner also placed reliance of report about affinity test. On perusal of the report, we did not find anything in favour of the petitioner. As said above, the petitioner claims that he belonging to 'Pardeshi Bhamta' community. The petitioner and his father, his uncle etc. did not show any particular characteristic present/practiced in their 'Pardeshi Bhamta' community. They are farmers since long and have relatives who bore certain names. This material is not sufficient to indicate that the petitioner belonged to 'Pardeshi Bhamta' community.

4. Learned counsel for the petitioner also placed reliance as an additional circumstance, on the order passed by the Chairman of the Committee. We found that he passed an order favouring the petitioner, but since the other two members of the Committee rejected the petitioner's claim, he was left in minority. The decision to reject the claim has been taken by majority. The reasons recorded by two members are found to be consistent with the material on record.

5. Needless to add that burden of proof of caste claim is always upon to the petitioner. He has to submit documents to prove the claim

before the Committee. The Caste Scrutiny Committee would perform role of verification, and therefore, they are expected to scrutinize the documents and other material produced before them. They are not expected to collect evidence of their own to either support the petitioner's claim or to reject it. We therefore of the view that the petition should fail. In view of above, writ petition stands dismissed. All interim orders passed in the mean time stands cancelled.

5. Rule is discharged.

(V.L. ACHLIYA, J.)

(A.V. NIRGUDE, J.)