

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 11615 OF 2014

Smt. Kamanibai w/o Chandrabhan Bhosale
age 70 years, occ. Household
r/o Raniunchegaon,
Tq. Ghansawangi
Dist. Jalna

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Secretary Social Welfare
Mantralaya, Mumbai 32.
2. The Divisional Caste Certificate
Scrutiny Committee No. 1
Aurangabad
Through its Vice Chairman
- 3 The Collector, Jalna.
4. Shri Gajanan s/o Rajuji Shinde
age 36 years, occ. Agri.
r/o Raniunchegaon, Tq. Ghansawangi
Dist. Jalna.

.. RESPONDENTS

Mr. S.M. Kulkarni, advocate for petitioner.
Mr. A.R. Kale, AGP for the State.
Mr. S.S. Thombre, advocate for respondent no. 4.

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**CORAM : R.M. BORDE &
K. L. WADANE, JJ.
DATE : 15th JUNE, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.

3. Petitioner is raising objection of the order passed by the Scrutiny Committee dated 12.12.2014 directing invalidation of the caste certificate issued in favour of petitioner certifying that she belongs to Mang caste which is included in Scheduled Caste category.

4. Petitioner is an elected member of Gram Panchayat. Since petitioner was elected as against the seat earmarked for Scheduled Caste category, caste certificate issued in her favour was referred to the Scrutiny Committee for verification. As a result of invalidation of caste certificate issued in the favour of petitioner, she has been unseated of the post of Sarpanch held by her. However, the vacancy in the office of member has not been declared.

5. Petitioner places reliance on the school admission record of her two sons by name Lahanu and Daniel which record entry in respect of their caste as Mang. The marriages in the family, according to petitioner, are performed in accordance with Hindu practices. Petitioner also contends that her relations and elders in the community recognised the family of petitioner as belonging to Mang caste. The claim of petitioner has been objected by respondent on the ground that father of petitioner by name Yohan appears to be belonging to Christian community. The Reverend of the Church of village Raniunchegaon has deposed before the Vigilance Cell that petitioner pays visit to the Church and professes Christian religion. Considering the report of Vigilance Cell and the record placed before the Committee, the Committee has drawn an inference that petitioner appears to have adopted Christian religion and does not appear to be belonging to

Hindu religion and Mang caste.

6. Petitioner contends that the view adopted by the Scrutiny Committee is inconsistent with the law laid down by the High Court as well as the Supreme Court. It is contended that there is no evidence coming forth in respect of adoption of Christianity by either father of petitioner or the family of the petitioner. Petitioner has not relinquished Hindu religion and has not adopted Christian religion at any point of time. Apart from this, it is contended that petitioner is accepted as a member of Mang caste by the community people and that her sons are also professing Hinduism and, their school record entries indicate their caste as Mang Scheduled Caste. No record is placed before the Committee to conclude that the family of petitioner has been ex-communicated and they have snapped ties with Hinduism. Conversion, if any, is only nominal and for all practical purposes the family belongs to Hindu religion. It is further pointed out that the disadvantages which are peculiar to Scheduled Caste, which is sadly a feature of Hindu religion, continue and the family faces such disadvantages and difficulties faced by the lower castes from amongst Hindus. In this context reliance can be placed on a judgment in the matter of C.M. Arumugam v. S. Rajgopal and others reported in **(1976) 1 SCC 863**. In paragraph no. 12 of the judgment, the Supreme Court has observed thus :

12. It seems that the correct test for determining this question is the one pointed out by this Court in *Chatturbhuj Vithaldas Jasani v. Moreswar Prasahram*. Bose, J., speaking on behalf of the Court in this case pointed out that when a question arises whether conversion operates as a breakaway from the caste, what we have to determine are

the social and political consequences of such conversion and that, we feel, must be decided in a common sense practical way rather than on theoretical and theocratic grounds. The learned Judge then proceeded to add :

Looked at from the secular point of view, there are three factors which have to be considered : (1) the reactions of the old body, (2) the intentions of the individual himself, and (3) the rules of the new order. If the old order is tolerant of the new faith and sees no reason to outcaste or excommunicate the convert and the individual himself desires and intends to retain his old social and political ties, the conversion is only nominal for all practical purposes and when we have to consider the legal and political rights of the old body, the views of the new faith hardly matter.

What is, therefore, material to consider is how the caste looks at the question of conversion. Does it outcaste or excommunicate the convert or does it still treat him as continuing within its fold despite his conversion: If the convert desires and intends to continue as a member of the caste and the caste also continues to treat him as a member, notwithstanding pointed out by this Court, "the views of the new faith hardly matter." This was the principle on which it was decided by the Court in *Chatturbhuj Vithaldas Jasni's* case (supra) that Gangaram Thaware, whose nomination as a scheduled caste candidate was rejected by the Returning Officer, continued to be a Mahar, which was specified as a scheduled caste, despite his conversion to the Mahanubhav faith."

7. In the instant matter, as stated above, there is no evidence of conversion of family to Christian faith. Father of petitioner who is stated to have adopted Christian religion also does not seem to be professing Christian religion since there is no evidence placed on record in that regard. There is no room for drawing inference that petitioner or her father have

adopted Christian religion and as such, the disadvantages which are peculiar to Scheduled Caste have been wiped out. It is further contended by petitioner that the statements of community people recorded by the Vigilance Cell demonstrate that Mang community also accept petitioner's family as belonging to said caste and that there is no excommunication of the family. As laid down by the Supreme Court in the matter of K.P. Manu, Chairman Scrutiny Committee for Verification of Community Certificate, reported in **AIR 2015 Supreme Court 1402**, three things need to be established by a person who claims to be a beneficiary of a caste certificate – (i) There must be absolutely clearcut proof that he belongs to the caste that has been recognised by the Constitution (Scheduled Caste) Order 1950; (ii) There has been reconversion to original religion to which the parents and earlier generations had belong; and (iii) there has to be a evidence establishing acceptance by the community. In the instant matter, since there is no evidence in respect of conversion, there arises no question of reconversion to the original religion. There is sufficient evidence placed on record to demonstrate that petitioner belongs to Mang caste and that the people of the community accept petitioner as a member of Mang caste.

8. The Scrutiny Committee has overlooked the basic principles while declining to grant validation certificate in favour of petitioner. The order passed by the Scrutiny Committee invalidating caste certificate issued to petitioner is erroneous and deserves to be quashed and set aside and the same is accordingly quashed and set aside. The Committee is directed to issue caste validation certificate in favour of petitioner certifying that she

belongs to Mang Scheduled Caste, in the prescribed proforma, as expeditiously as possible, preferably within a period of four weeks from today. Rule made absolute accordingly. In the facts and circumstances of the case, there shall be no order as to costs.

9. Pending civil application, if any, does not survive and stands disposed of.

(K. L. WADANE)
JUDGE

(R. M. BORDE)
JUDGE

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