

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12585 OF 2016

Majaj Chandpasha Shaikh

Petitioner

Versus

The Divisional Caste Scrutiny Committee
No.2, Latur and others

Respondents

Mr.A.S. More advocate for the petitioner
Mr.S.P. Tiwari, AGP for Respondent No.1

CORAM : R.M. BORDE &
SANGITRAO S. PATIL, JJ

(Date : 21st December, 2016.)

PER COURT :-

1 The petitioner is objecting to the order passed by the Scrutiny Committee, directing invalidation of the caste certificate issued to him.

2 The petitioner claims to belong to *Fakir* caste, which is included in other backward classes (OBC) category. Since the petitioner secured admission to Respondent No.3 Engineering College, as against a seat reserved for OBC category, the caste certificate issued to him was referred to the scrutiny committee for verification. The scrutiny committee, on consideration of the relevant record came to the conclusion that, the petitioner has

failed to substantiate his claim and further has relied upon fabricated record for substantiating his claim and as such directed invalidation of the caste certificate issued to him.

3 On perusal of the order, it appears that the entry in school leaving register pertaining to the father of the petitioner indicates his caste as *Fakir*. However, on perusal of the original record, it is revealed that there is interpolation in the original record and the word '*Fakir*' which indicates the caste, is recorded in different ink. During verification by the vigilance cell, the vigilance officer noticed the fabrication in the original school record maintained by the school relating to specific entry concerning father of the petitioner. The vigilance officer has recorded in his report that the documentary evidence on which reliance is placed by the petitioner appears to be fabricated. It will have to be assumed that since the petitioner is benefited as a result of fabrication of record, he cannot disown his liability or at least cannot be permitted to rely upon such manipulated record to substantiate his claim. The other evidence placed on record by the petitioner relates to his school admission, wherein, his caste is recorded as *Fakir*. There is absolutely no old record produced by the petitioner to substantiate his claim.

4 The petitioner has placed reliance on the Judgment of the Honourble Supreme Court in the matter of **Sayanna versus State of Maharashtra (2009 All M.R. 957)** to contend that since the original record has not been referred for expert's opinion, adverse inference cannot be drawn against petitioner. In the reported matter, the scrutiny committee noticed interpolation in the documentary record relied upon by appellant before Supreme Court. The fabrication was not attributable to the appellant therein, according to Supreme Court and as such, it is concluded that the appellant in reported matter cannot be blamed for such fabrication.

5 In the instant matter, the original entry, on which reliance is placed by the petitioner, in respect of the caste of father of the petitioner, appears to have been recorded in different ink and as such, the scrutiny committee has rightly refused to place reliance on such entry. It need not be investigated as to who is the author of the entry. The observations made by the Vigilance Cell as well as the Scrutiny Committee in respect of recording of the entry which is in different ink is sufficient to come to conclusion that such entry need not be relied upon. Apart from the alleged fabricated entry, there is no other old evidence produced by petitioner to substantiate the claim of the petitioner.

6 In view of above, the order passed by the Scrutiny Committee being reasonable and proper, need not be interfered with in exercise of extraordinary jurisdiction under article 226 of the Constitution of India.

7 The petitioner was given option to tender an undertaking to this Court to the effect that he would not claim any benefit as a member belonging to OBC category in future if he intends to claim protection of his admission to professional course. However, the petitioner refused to tender such undertaking. As such the relief in respect of protection of his admission to professional course, which petitioner has secured as against reserved seat, cannot be granted.

8 Writ petition is devoid of substance and as such, stands dismissed.

(SANGITRAO S. PATIL, J)

(R.M.BORDE, J)