

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 588 OF 2015

KUM. SIBLY AGNES D'CUNHA,
REPRESENTED BY HER FATHER, ANDREW
D'CUNHA.

... Petitioner

Versus

SCRUTINY COMMITTEE, THROUGH ITS
CHAIRMAN, THE SECRETARY DEPT. OF
SOCIAL WELFARE, GOA AND 5 ORS.,

... Respondents

Mr. Gajendra Usgaonkar, Advocate for the petitioner.
Mr. V. Rodrigues, Government Advocate for the respondent nos.1,4
& 5.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 5th April, 2016

P.C.

Heard Mr. G. Usgaonkar, learned Counsel appearing for the petitioner and Mr. V. Rodrigues, learned Government Advocate appearing for the respondent nos.1, 4 & 5.

2. The grievance of the petitioner is that the Scrutiny Committee constituted to verify the caste certificate of the respondent nos. 9 to 70 have not followed the directions issued by the Apex Court in the Judgment in the case of Kumari Madhuri Patil Vs. Addl. Commissioner, reported in 1994 SCC (6) 241. The learned Counsel points out that all the orders passed with regard to the said respondents were without giving any reason and, as such, according to him, all the orders are to be set aside and the scrutiny committee be directed to examine the matter afresh. The learned Counsel further

points out that even with regard to the petitioner, such order was passed by the scrutiny committee without giving any reason or carrying out any investigation with regard to the caste of the petitioner. The learned Counsel further points out that it is well settled by different judgments of this Court that while passing orders confirming caste certificate reasons are to be given by the scrutiny committee whilst considering such application which, according to him, have not been followed in regard to caste certificate issued to the respondent nos. 9 to 70. The learned Counsel further points out that respondent nos. 9 to 70 based on such certificate have got admission to different institutions and they are pursuing their studies. The learned Counsel further points out that all the orders passed with regard to the respondent nos. 9 to 70 be quashed and set aside.

3. On the other hand, Mr. V. Rodrigues, learned Government Advocate appearing for the respondent nos. 1, 4 and 5 submits that the directions issued by this Court have been followed and that the manner in which certificates are to be scrutinized in terms of the directions issued in the judgment in the case of *Madhuri Patil (supra)* have been followed by the scrutiny committee and even with regard to the Constitution of the scrutiny committee, the Division Bench of this Court has issued directions in the case of *Zacarias Mendes Vs. Milton Olumpia Marques and ors.*, reported in 2015(4) ALL MR 665.

The learned Government Advocate, as such, further submits that there is no material on record to examine the contention of the petitioner that any order has been passed without following due

process as provided in the directions issued by this Court. The learned Government Advocate has produced a copy of the order passed in connection with the scrutiny of the caste certificate of the petitioner himself to point out that the due investigation in terms of the directions in the case of Madhuri Patil(supra) have been duly followed. The learned Counsel appearing for the petitioner however, submits that a copy of the said order was not forwarded to the petitioner herein.

4. We have considered the submission of the learned Counsel and we have also gone through the record.

5. The directions issued by this Court in the case of Zacarias Mendes (supra) as well as the other directions issued by the Apex Court in the case Madhuri Patil(supra), it have to be followed by the respondents. On the basis of material produced on record, we are not in a position to examine the contention of the learned Counsel appearing for the petitioner that such directions have not been followed. Not a single order is produced on record with regard to any of the respondents to examine the contention of the petitioner.

6. Be that as it may, it is not possible for this Court to examine all the orders in respect of the respondent nos. 9 to 70 without the petitioner obtaining cogent evidence to establish that such respondents are not entitled for such certificate. The whole exercise intended by the petitioner is a fishing enquiry to fashion their case therefrom which cannot be permitted by this Court while exercising extra ordinary jurisdiction under Article 226 of the Constitution of

India. The petition suffers grossly from mis-joinder of cause of action and, as such, we find no basis to entertain the above petition in the manner it has been filed. There is no material produced on record to examine the correctness of the allegations raised by the petitioner. In any event, on perusal of the order produced by the learned Government Advocate in connection with the petitioner himself, prima facie the learned Counsel for the petitioner was not in a position to point out how such order is contrary to law.

7. In view of the above, we find no merits in the above petition, and as such, stands rejected. Needless to say that the directions issued by this Court in the said judgments would have to be followed in accordance with law.

8. Petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.