

Pankti Nitinkumar Makwana	}	Petitioner
versus		
State of Maharashtra and Ors.	}	Respondents

Ms. Sushma Bhende - AGP for respondent
nos. 1 to 3.

**CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.**

DATED :- MARCH 30, 2016

P.C. :-

1) By this petition under Article 226 of the Constitution of India, the order of the Scrutiny Committee invalidating the caste claim of the petitioner has been challenged.

2) The only contention raised before us by Mr.Mendadkar is that the petitioner's caste claim has been invalidated on the ground that the petitioner has not fulfilled a condition of submitting proof of residence in Maharashtra continuously and prior to 10th August, 1950. Though the petitioner furnished proof that his grandfather from paternal side was a resident of the State of Maharashtra and completed his primary education in Gujrati school in Ahmadabad, though the

siblings of the petitioner and born in Mumbai have been granted such validity certificate without raising any issue of compliance of the condition, only in the case of the petitioner this is the reason put forward for invalidating the caste claim.

3) The petitioner states that there was a specific averment that the grandfather of the petitioner shifted to Mumbai at around 1946-47 and settled down permanently. The petitioner's father was born on 1st October, 1963 in Mumbai and educated in Mumbai. The petitioner was born on 2nd December, 1992 at Mumbai.

4) The argument is that if the petitioner's father was born in the State of Maharashtra after 10th August, 1950, still, there was material before the committee that the family was residing prior to the cut off date and continuously in Maharashtra, then, the caste claim could not be invalidated on this ground.

5) Our attention is invited to the order passed by the Scrutiny Committee, which we have carefully perused with the assistance of both, Mr. Mendadkar and Ms. Bhende AGP appearing for the State and the committee.

6) We find that the committee framed three issues, the first amongst which was regarding this proof of residence prior to 10th August, 1950. However, surprisingly, the committee says and in positive terms that the petitioner has satisfied it that he belongs to the Schedule Tribe Mochi as claimed by him. However, the caste certificate cannot be validated for want of residential proof.

7) If the petitioner's real sister has been granted a caste validity certificate by this very committee and copy of which is at page 31 of the paper book, without raising any such issue or compliance with the condition in the above nature, then, we are at a loss as to why the committee adopted this course and approach as far as the petitioner is concerned.

8) Ms. Bhende learned AGP also was not able to satisfy us as to how the committee applied its mind and invalidated the caste claim only on the above ground.

9) Having found that the committee's order falls short of the required standard and vitiated by total non application of mind to vital materials, we have no alternative but to quash and set aside the order. We accordingly quash and set aside the same. The caste claim shall now be reverified by the committee

uninfluenced by earlier observations and findings, afresh, as expeditiously as possible and within a period of 3 months from the date of receipt of a copy of this order.

10) At this stage, Mr. Mendadkar states that the petitioner has been admitted to the post graduate management course in the respondent no. 4 college. The petitioner was, as an undergraduate, admitted in L. S. Raheja College, which college forwarded the petitioner's caste certificate for verification to this competent committee on 30th July, 2014, but the committee took such a long time, namely, till 20th November, 2015 to consider it. In the meanwhile, the petitioner also cleared the undergraduate course and now is a student of the MMS post graduate degree course under the reserved category for academic year 2015-16 at respondent no. 4 college. The petitioner produced proof of admission at the said college with effect from 1st July, 2015 and a receipt evidencing payment of fees. If this is the factual position and as noted by the competent authorities, then, if the petitioner is a bonafide student of respondent no. 4 college, has attended classes, complied with all academic rules and regulations, then, she be permitted to appear in the ensuing examination to be held in 2016 subject to the order to be passed by the scrutiny committee. No equities would be claimed by the petitioner if caste

certificate is not validated by the committee. Then, the petitioner's admission to stand discontinued forthwith.

11) We direct that in the event the petitioner complies with all other rules and regulations and the form is filled in before the cut off date, then, she may be allowed to appear for the examination to be held in May, 2016 subject to aforesaid.

12) The writ petition is allowed in the above terms. There would be no order as to costs.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)