

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2376 OF 2015

Deepal Ravindra Panchal

... Petitioner

Vs

1. State of Maharashtra & Ors.

... Respondents

***WITH
CIVIL APPLICATION NO. 385 OF 2016
IN
WRIT PETITION NO. 2376 OF 2015***

Deepal Ravindra Panchal

... Petitioner

Vs

1. State of Maharashtra & Ors.

... Respondents

Mr. Chintamani K. Bhangoji for the Petitioner / Applicant.

Ms. Sushama Bhende, AGP, for the Respondent Nos.1, 2 & 5.

Mr. R.V. Govilkar for the Respondent No.3.

***CORAM : S.C. DHARMADHIKARI &
G.S. PATEL, JJ.***

THURSDAY, 03RD MARCH, 2016

P.C. (Per G. S. Patel, J):

1. We have heard Mr. Bhangoji for the petitioner, Mr. Govilkar for the respondent No.3 and Mrs. Bhende, learned AGP for the

respondent Nos.1 and 2. When we indicated that we were inclined to allow this petition, Mrs. Bhende sought time to take instructions, even telephonically. As no purpose would be served by this, given the facts and circumstances of the case and to which we will advert shortly, we declined this request.

2. The petitioner claims to belong to the Panchal class, recognized as Other Backward Class in Maharashtra. The second respondent is the Scrutiny Committee constituted in accordance with section 6(1) of the Maharashtra Scheduled Castes, Scheduled Tribes, DeNotified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Category (Regulation Of Issuance And Verification Of) Caste Certificate Act, 2000.

3. By this petition under Article 226 of the Constitution of India, the petitioner challenges the order dated 26th December, 2014, passed by the Caste Scrutiny Committee, invalidating, cancelling and confiscating the Caste Certificate earlier issued to her and which showed her as belonging to the Panchal OBC. The ground for cancellation of this certificate was that the petitioner had failed to produce documents conclusively, or at least

satisfactorily, establishing her class as being correctly recorded as Panchal prior to 1967.

4. It is not in dispute that on her application, the petitioner was granted a Caste Certificate by respondent No.5 - Sub-Divisional Officer. This Caste Certificate stated that the petitioner belongs to the Panchal caste. It was issued on 6th May, 2011. In paragraph 4 of the petition, the petitioner in terms states that her real brother, Sameer Ravindra Panchal, had applied to the Caste Scrutiny Committee No.3, Mumbai Suburban for the grant of a Caste Certificate in the year 2010. This was indeed granted to him on 16th December, 2010. A copy of this Caste Validity Certificate issued to the petitioner's brother is Exhibit-C at page 24 of the paper-book.

5. As the petitioner intended to apply for admission to a medical degree course, she moved the second respondent for verification of her caste certificate. She submitted various documents, which included the Caste Validity Certificate granted to her real brother Sameer, her own School Leaving Certificate which records her caste as Panchal (Exhibit-D at page 25) as also

the School Leaving Certificate of her father (Page 28, part of Exhibit-D collectively). As regards the petitioner's own School Leaving Certificate, this records her caste as Panchal. Her father's School Leaving does not show his caste or class at all. Her father's name is shown in this certificate as "Shri Panchal Ravindrakumar Raghunath" and his date of birth is shown as 2nd April, 1965. This certificate is apparently issued on 6th September, 2010.

6. We find from the impugned order at page 19 of the paper-book that the Scrutiny Committee had before it all this material. It was duly tabulated. However, the Scrutiny Committee, for reasons we are unable to comprehend, came to the conclusion that these documents did not establish the petitioner's caste as belonging to Panchal. In doing so, in our view, the Caste Scrutiny Committee materially misdirected itself and apparently overlooked an additional document also submitted by the petitioner. This is a certificate dated 4th October, 1985, issued by the Additional Chief Metropolitan Magistrate, 11th Court, Kurla, on an application made by the petitioner's father wherein his name is shown as "Ravindra Kumar s/o Raghunath Panchal".

Before the Additional Chief Metropolitan Magistrate the petitioner's father submitted as many as nine separate documents. In these, he also explained the discrepancy as to why in his School Leaving Certificate the caste had not been mentioned. He, however, produced other documents evidencing his caste, including his service certificate as also Caste Certificate No.K-4847/85 issued to his own male cousin. On the basis of these documents, the Additional Chief Metropolitan Magistrate certified that the petitioner's father had proved that he did belong to Panchal caste.

7. Thus, what the Caste Scrutiny Committee – respondent No.2 had before it in this particular case was a Caste Validity Certificate issued to the petitioner's brother, a School Leaving Certificate of the petitioner's father as also a certificate issued by the Additional Chief Metropolitan Magistrate to the petitioner's father, all of which established the family's caste. We also note that there is no dispute as to the family tree or genealogy, a copy of which was also before the Caste Scrutiny Committee at page 30.

8. Given these particulars, we do not think that it was open to the Caste Scrutiny Committee to reject the petitioner's application as it has done. In our view, there is a fatal non-application of mind to the material before the Caste Scrutiny Committee. The petition deserves to be allowed. It is made absolute in terms of prayer clauses (a) and (b).

9. As regards Civil Application No. 385 of 2010, Mr. Govilkar states that the original mark sheet of the first MBBS (Summer 2015) has already been sent by respondent No.3 to the petitioner's college being respondent No.4. That statement is recorded and accepted. Mr. Govilkar tenders a copy of a communication dated 12th February, 2015, by which the original mark sheet was transmitted to the respondent No.4 - college by the third respondent - University. This is taken on file and marked "X-1" for identification.

10. The Writ Petition and the Civil Application are both disposed of in these terms with no order as to costs. The fourth respondent - college is directed to release the original mark sheet to the petitioner, if required, and in any case not to withhold it on

the ground of non-furnishing of a Caste Validity Certificate, since we have directed that such a validity certificate is to be issued.

G.S. PATEL, J.

S.C. DHARMADHIKARI, J.