

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

WRIT PETITION NO.3677 OF 2015

Chairman, Nivrati Seva Sangh, Ekatpur & Anr. ... Petitioners

V/s.

Ms. Kamunnissa Ibrahim Inamdar &Ors. ... Respondents

Mr. Girish S. Godbole, Senior Advocate i/b Mr. Ashok B. Tajane a/w Ms. Sanjukta Dey for the Petitioners in Writ Petition No.3677 of 2015.

Mr. R.K. Mendadkar i/b Mr. Suman Y. Lengare for the Respondent No.1 in Writ Petition No.3677 of 2015.

Mr. P.P. Kakade, AGP for Respondent Nos.2 and 3/State in WP No.3677 of 2015.

**CORAM : NARESH H. PATIL AND
A.A. SAYED, JJ.**

3rd March, 2016.

P.C.

1 The Petitioners in Writ Petition No.3677 of 2015 challenges the order dated 29 December 2014 passed by the Respondent No.2 - Divisional Caste Scrutiny Committee. Respondent No.1 Miss Kamunnissa Ibrahim Inamdar was appointed as Assistant Teacher in the School run by the Petitioners Management. The Petitioners Management insisted for a Caste Validity Certificate as Respondent No.1 failed to submit the said Caste Validity Certificate. She came to be terminated by an order dated 25 January 2014. The Petitioners

Management had forwarded caste certificate of the Respondent No.1 as 'Muslim Kasab' (Other Backward Class) for verification to the Divisional Caste Scrutiny Committee by proposal dated 15 June 2010/16 July 2011.

2 From the original record it is seen that the Respondent No.1 employee participated the proceeding before the Caste Scrutiny Committee. The Respondent No.1 employee filed an Application with the Caste Scrutiny Committee on 16 August 2014 stating therein that she had obtained caste certificate as 'Kasab' due to ignorance, she would not press the said caste certificate. It was submitted that she obtained caste certificate as 'Mulani' OBC which certificate shall be verified by the Caste Scrutiny Committee. On 30 August 2014 the Respondent No.1 employee prayed for adjournment before Caste Scrutiny Committee. We find one more Application filed by the Respondent No.1 employee to the Caste Scrutiny Committee stating therein that her caste status be examined as 'Mulani' OBC.

3 The Caste Scrutiny Committee decided the matter on 29 December 2014. In paragraph 3 of the said order, the Scrutiny Committee noted that in accordance with the decision/resolution of the Committee dated 24 March 2014, the matter was heard on 16 August 2014 and the same was reserved for order. This statement seems to be factually incorrect as we find in the record that on 16 August 2014 the Respondent No.1 employee had filed an Application for examining her caste status as 'Mulani' and not 'Kasab'. We find that the Committee ought to have called for the necessary record. The Committee ought to have examined the record and evidence submitted by the Respondent No.1 employee. It appears that a fresh Vigilance Cell Report was not called for after the Respondent No.1

employee submitted an Application on 16 August 2014. The Committee straight way resorted to cancel 'Kasab' caste certificate and proceeded to decide the caste claim of 'Mulani' of the Respondent No.1 employee without dealing with the issue in appropriate manner.

4 The Counsel appearing for the Petitioners Management submitted that Respondent No.1 employee did not intimate the Petitioners Management that she was not pressing her caste claim as 'Kasab'. In case the Petitioners Management was intimated they would have participated in the proceedings before the Committee.

5 Learned Counsel appearing for Respondent No.1 employee submitted that the employee voluntarily adopted stand before the Committee not to press her caste status claim as 'Kasab'. Therefore, in accordance with the statement made by the Respondent No.1 employee her caste status as 'Mulani' was examined by the Committee. The Committee was satisfied and consequently upheld the claim of the Respondent No.1 employee of her caste status.

6 Learned AGP submitted that in accordance with the Application submitted by the Respondent No.1 employee the Committee examined the claim of the Respondent No.1 employee as 'Mulani'.

7 After considering the entire record placed before us and the submissions advanced by the parties, we are of the view that the matter needs to be remanded back to the Committee. The parties may participate in the proceedings after the remand of the matter. The Respondent No.1 employee would be entitled to submit fresh evidence which was not earlier placed before the Committee. The Committee shall call for a fresh Vigilance Cell Report and after according

opportunity of hearing to the parties, the Committee shall take appropriate decision on its own merits at the earliest.

8 Perusal of the original record shows that the Committee did not maintain record i.e. minutes, roznama, index, pagination in a proper format. The papers containing minutes maintained by the Committee were seen scattered at various places in the record. We direct the Committee to maintain the original record/office record properly.

9 Copy of this order be forwarded to the Principal Secretary, Government of Maharashtra, Social Justice, Cultural Affairs and Special Assistance Department, Mumbai, who shall issue instructions to the Committee in respect of maintenance of its office record, minutes, roznama, index, pagination and filing procedure in a proper format.

10 For the aforesaid reasons, following order is passed:

Order

- a) Impugned order dated 29 December 2014 passed by the Respondent No.2 Divisional Caste Scrutiny Committee, Solapur is quashed and set aside and the matter is remanded back to the Respondent No.2 Divisional Caste Scrutiny Committee, Solapur.
- b) Respondent No.2 the Divisional Caste Scrutiny Committee, Solapur is directed to decide the caste status of the Respondent No.1 employee as 'Mulani' in accordance with law and dispose of the matter within three months.

- c) It is clarified that we have not expressed any opinion on the merits of the claim of the Petitioners Management.
- d) Rule is made absolute in the above terms.

(A.A. SAYED, J.)

(NARESH H. PATIL, J.)

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