

Aishwarya Manoj Jamdade Petitioner
V/s.
State of Maharashtra,
Through the Secretary,
Social Justice and Special Assistance
Department, Mantralaya, Mumbai & Ors. Respondents

Ms. Sushma Bhende, A.G.P., for Respondent Nos.1 to 3 and 5.

DATE : 10TH AUGUST, 2016.

1. We have heard both sides and perused the original record.
2. On the earlier two occasions, we had indicated to the learned A.G.P. as to how respondent No.2-Committee, and particularly by the majority orders, was justified in refusing the Caste Validity Certificate to the petitioner. Firstly, the petitioner's father had filed his personal affidavit, duly explaining the family tree and genealogy, before the respondent No.2-Committee. Going by that and which is not doubted by the Committee, it should have noticed that the petitioner's father is Manojkumar Jamdade. Manojkumar has a real brother Jitendra Jamdade. Jitendra Jamdade has

been issued a Caste Validity Certificate / Certificate of Validity dated 23rd March 2004 and one Pranav Sharad Jamdade, the first cousin brother of the petitioner and born to Sharad Jamdade, who is the real brother of the petitioner's father, has been issued a similar certificate of validity on 30th April 2013, copy of which is at "Annexure-I", page No.45 of the paper-book. Both the Certificates certify that these persons belonging to "*Khatik*" community.

3. The petitioner laid a similar claim on the footing that she has been granted admission directly in the second year of Engineering Degree Course in the respondent No.4-Institution under "*reserved*" category. Her Caste Certificate as belonging to "*Khatik Scheduled Tribe*" was referred for verification and scrutiny. The respondent No.2-Committee doubted the entry in the school record of the petitioner. It is found that the Vigilance Cell, on personal visits and verification, has stated in the report that there is overwriting in the certificate issued to the petitioner by the school, which she last attended. However, we have on record an explanation from the Head Master of that school that this overwriting has been done *bona fide* i.e. to bring the entry in the caste column of the petitioner in conformity with that of her father. The father's school record shows that he is "*Hindu Khatik*". That is how the correction has been effected and there is nothing malafide about it.

4. We put it to Ms. Bhende as to how, in the teeth of the above overwhelming material, could the respondent No.2-Committee have denied the Caste Validity Certificate of the petitioner and all that she would submit is that the majority order doubts certain entries in the school register and, therefore, it was justified in arriving at a different conclusion.

5. We have already disapproved such approach of the Committee, which goes on doubting the records and some times when they contain certificates of validity. These certificates of validity were issued by the Committee competent to issue them and unless these certificates of validity pertaining to real and cousin brothers/sisters from the paternal side are vitiated by fraud and misrepresentation or suppression of relevant and material facts, the Committee is not justified in ignoring and brushing them aside, that we have set aside several orders of such Committees.

6. We find the case in this matter to be identical. Once the close relatives from the paternal side have been granted Caste Validity Certificate certifying them as belonging to "*Hindu Khatik Scheduled Tribe*" and those were not vitiated, as indicated above, then, the order passed in the present case and impugned in the Petition cannot be upheld. That is patently erroneous and unsustainable in law. It is, therefore, set aside.

7. The respondent No.2-Committee shall now issue the Caste Validity Certificate to the petitioner within a period of ten days from today. If compliance is not made with this order and direction, we would be constrained to direct the Secretary in the Department of Social Welfare, Government of Maharashtra, to dissolve the respondent No.2-Committee.
8. Writ Petition is disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [S.C. DHARMADHIKARI, J.]