

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10746 OF 2016

Kshirsagar Rukmini Mohan.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. R. K. Mendadkar for the Petitioner.

Mrs. M. P. Thakur, AGP for the State.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **September 20, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and learned AGP for the State. By this petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the order dated 6th February 2016 passed by Respondent No. 2 – Divisional Caste Certificate Scrutiny Committee, Solapur Division, Solapur. By the said order, the caste claim of the Petitioner as belonging to “Nhavi” caste in “OBC” category is invalidated.

2. Admittedly, the Petitioner was the resident of village Godihal, taluka Indi, district Bijapur, State of Karnataka. In the year 1972, i.e., after the cut-off date of 13th October, 1967, she got married with one Mohan Dnyanoba Kshirsagar, permanent

resident of village Eklaspur post Anavli, taluka Pandharpur, district Solapur in the State of Maharashtra. Thus, the Petitioner is migrant in the State of Maharashtra from the State of Karnataka. In that view of the matter, she is not entitled to claim benefits of her caste in the State of Maharashtra. Respondent No.2-Committee also recorded the finding that the Petitioner is migrant from the State of Karnataka and therefore not entitled to the benefits of her caste claim as "Nhavi" in "OBC" category in the State of Maharashtra. The said finding is recorded on the basis of the affidavit tendered by the Petitioner herself and the reply given by her to show cause notice. Be that as it may, the Petitioner has not given any evidence / material to demonstrate that she has domiciled in the State of Maharashtra prior to the said cut-off date.

3. Mr. Mendadkar, learned Counsel appearing for the Petitioner submitted that vigilance cell report was not called for in the present case and therefore the whole process of decision making is vitiated and as such impugned order cannot be sustained. We do not find any merit in the said submission of Mr. Mendadkar inasmuch as the material on record in the form of

Petitioner's own affidavit and reply given to the show cause notice do demonstrate that she is migrant in the State of Maharashtra from the State of Karnataka. At any rate, no prejudice is caused to the Petitioner by not calling for the said vigilance cell report.

4. In above circumstances, we do not any fault with the impugned order. Hence, writ petition is dismissed.

5. At this stage, Mr. Mendadkar, learned Counsel appearing for the Petitioner submitted that this order may be stayed for the period of two weeks in order to enable the Petitioner to approach the higher Court. The request was opposed by learned AGP for the State. However, in the interest of justice and in order to enable the Petitioner to approach the higher Court, we stay the present order for the period of two weeks from today.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]