

**FARAD CONTINUATION SHEET No.**  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO. 300/2016**

(MEENA JEEVAN KHAMBALKAR **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,  
 appearances, Court's orders of directions  
 and Registrar's orders

Court's or Judge's orders

Shri A.S. Mardikar, Senior Counsel with Shri S.G. Joshi, counsel for the petitioner.  
 Shri V.P. Gangane, A.G.P. for the R-1 to 4.

**CORAM : SMT.VASANTI A. NAIK AND**  
**MRS. SWAPNA JOSHI, JJ.**

**DATE : JUNE 24, 2016.**

By this writ petition, the petitioner challenges the order of the Scrutiny Committee dated 01.10.2014 invalidating the claim of the petitioner of belonging to Dhoba Scheduled Tribe.

The petitioner was appointed on the post of Auxiliary Nurse-cum-midwife on 14.11.2005, that was reserved for the Scheduled Tribes. The petitioner claimed to belong to Dhoba Scheduled Tribe and the respondent no.4-Employer referred the caste claim of the petitioner to the Scrutiny Committee for verification. The Scrutiny Committee, by the impugned order dated 01.10.2014 rejected the caste claim of the petitioner. The order of the Scrutiny Committee is challenged by the petitioner in the instant petition.

Shri Mardikar, the learned Senior Counsel appearing for the petitioner, submitted that the Scrutiny Committee was not justified in invalidating the caste claim of the petitioner on the basis of the statement-affidavit filed by the petitioner before the Scrutiny Committee. It is stated that the affidavit filed by the petitioner before the Scrutiny Committee that she does not belong to Dhoba Scheduled Tribe and her

father had wrongly recorded her caste as Dhoba in the school records though she belongs to caste Warthi should not have been the basis for invalidation of the caste claim. It is stated that an opportunity should be granted to the petitioner to explain the affidavit. It is further stated that the petitioner was not granted a fair opportunity, inasmuch as, after the service of the notice on the address of the petitioner at Nagpur, the matter was not adjourned. It is stated that as the petitioner could not remain present before the Scrutiny Committee, the Scrutiny Committee ought to have adjourned the matter. It is further stated that the Scrutiny Committee ought not have given any weightage to the affidavit filed by the petitioner and the documents recording the caste of the near relatives of the petitioner as Warthi should not have been considered in the light of the affidavit.

Shri Gangane, the learned Assistant Government Pleader appearing for the respondent-Scrutiny Committee, supported the order of the Scrutiny Committee. It is submitted that the petitioner was duly served with the notice of hearing at Nagpur and the petitioner failed to remain present. It is stated that the petitioner also did not file any application before the Scrutiny Committee for adjournment and, hence, the petitioner cannot claim that the petitioner was not granted a fair opportunity of hearing by the Scrutiny Committee. It is stated by referring to the original record that the petitioner had tendered an affidavit-statement before the Scrutiny Committee that she belongs to Warthi caste and that her parents had wrongfully recorded her caste as Dhoba in the school records. It is stated that the affidavit of the petitioner was not considered in isolation and that was not the only material on the basis of which the caste claim of the petitioner was rejected. It is stated that in several old documents pertaining to the near relatives of

the petitioner, "Warthi" was recorded in the caste column. It is stated that the petitioner had also failed in the affinity test and the Scrutiny Committee has rightly rejected the caste claim of the petitioner.

On hearing the learned counsel for the parties, we find that the Scrutiny Committee was justified in rejecting the caste claim of the petitioner. As rightly submitted on behalf of the respondents, the Scrutiny Committee not only relied on the affidavit filed by the petitioner that she does not belong to 'Dhoba' Scheduled Tribe and belongs to Warthi caste but, also considered several old documents pertaining to the near relatives of the petitioner, in which their caste was recorded as 'Warthi'. Since the petitioner had claimed to belong to Dhoba Scheduled Tribe and Warthi is not a scheduled tribe, the Scrutiny Committee rightly found that the claim of the petitioner of belonging to Dhoba Scheduled Tribe, was false.

It cannot be said that the Scrutiny Committee was not justified in considering the affidavit filed by the petitioner. There was no reason for the petitioner to state in the affidavit that she belongs to Warthi caste and her father-parents had wrongfully recorded her caste as Dhoba in the affidavit, if it was not so. It is not the case of the petitioner that the respondent-Scrutiny Committee had forcefully got the documents executed from the petitioner. It appears that the petitioner had made a clean breast of the matter before the Scrutiny Committee and had admitted that she does not belong to Dhoba Scheduled Tribe and belongs to caste 'Warthi'. The Scrutiny Committee also found that the petitioner had not proved her affinity towards Dhoba Scheduled Tribe. The petitioner had clearly failed the affinity test and considering the old entries of 'Warthi', the absence to prove the affinity towards Dhoba Scheduled Tribe and the affidavit, the Scrutiny Committee rightly held that the

petitioner had failed to prove her caste claim. It cannot be said in the circumstances of the case that the Scrutiny Committee had either refused to grant an opportunity of hearing to the petitioner or had mis-appreciated the material on record.

Since the order of the Scrutiny Committee is just and proper, we dismiss the writ petition with no order as to costs.

At the request of the learned counsel for the petitioner, the interim order is continued for a period of six weeks. The same would automatically stand vacated on the expiry of six weeks.

Order accordingly.

**JUDGE**

**JUDGE**

APTE