

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2268/2016

Firoza Bano d/o Aziz Shah

...Versus...

The State of Maharashtra, Through the Secretary, Social Welfare Department,
Mantralaya, Mumbai – 32 and others

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

Court's or Judge's orders

Shri V.R. Choudhari, Advocate for petitioner
Shri A.M. Balpande, AGP for respondent nos.1 and 2
Shri J.B. Kasat, Advocate for respondent no.3

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

DATE : 29.06.2016

By this writ petition, the petitioner challenges the order of the Scrutiny Committee, dated 1.4.2016 invalidating the claim of the petitioner of belonging to Chapparband Vimukta Jati.

The petitioner was appointed on the post of clerk in Amravati District Central Cooperative Bank Limited on 18.3.2013, that was earmarked for the Vimukta Jatis. The petitioner claimed to belong to Chapparband Vimukta Jati and the caste claim of the petitioner was referred to the Scrutiny Committee for verification. The petitioner relied on 11 documents, that were tendered by the petitioner before the Scrutiny Committee that included a copy of the family tree, to substantiate her caste claim. The Scrutiny Committee, conducted a vigilance enquiry and after serving a

copy of the vigilance report on the petitioner and asking the petitioner to give her say on the show-cause-notice, invalidated the claim of the petitioner of belonging to Chapparband Vimukta Jati. The order of the Scrutiny Committee, dated 1.4.2016 is challenged by the petitioner in the instant petition.

The impugned order is challenged by the petitioner only on two grounds. It is the case of the petitioner that the relevant documents, that were collected by the Vigilance Cell during the enquiry and on which, the Scrutiny Committee relied for invalidating the caste claim of the petitioner, were not supplied to the petitioner despite request. It is stated that the petitioner had not received the documents, that were discovered by the Vigilance Cell along with the show-cause-notice and the vigilance report. It is stated that though the Counsel engaged by the petitioner before the Scrutiny Committee had sought permission to lead evidence, the Scrutiny Committee did not grant an opportunity to the petitioner. No other ground is raised by the petitioner either in the writ petition or in the oral submissions made on behalf of the petitioner in this Court today, for challenging the impugned order.

On hearing the learned Counsel for the parties and on a perusal of the original record and proceedings in the matter of verification of the caste claim of the petitioner, we find that there is no merit whatsoever in the submissions made on behalf of the petitioner for challenging the impugned order. It was sought to be canvassed on behalf of the petitioner that the documents, that were discovered/unearthed by the Scrutiny Committee, were not supplied to the petitioner while the Scrutiny Committee relied on

the same. This is not a factually correct statement. We find on a perusal of the order of the Scrutiny Committee and the original record and proceedings including the vigilance report that no new documents were discovered by the Scrutiny Committee and the caste claim of the petitioner is invalidated only by referring to the documents tendered by the petitioner. We have perused the show-cause-notice from the original record. The petitioner was asked to show cause about some of the entries that were contrary to the caste claim of the petitioner, in the documents submitted by the petitioner herself. If the petitioner was asked to give her say on those documents, it was not necessary for the Scrutiny Committee to again supply those documents to the petitioner. The petitioner has answered the show-cause-notice and has given her say/explanation to the queries made in the show-cause-notice. The petitioner has not made any grievance in the reply to the show-cause-notice that she has not received some documents. We also do not find any application of the petitioner in the record and proceedings, asking the Scrutiny Committee to supply some documents to the petitioner.

The impugned order cannot be vitiated on the ground that permission to lead oral evidence was not granted to the petitioner. On the previous date of hearing i.e. 13.4.2016, we had asked the learned Counsel for the petitioner as to why the petitioner was desirous of leading evidence. Surprisingly, the learned Counsel for the petitioner answered that the oral evidence was required to be tendered for explaining the cultural traits. We do not find any merit in the submission made on behalf of the petitioner that the petitioner should have been granted an

opportunity to lead oral evidence for the purpose of proving cultural traits. Normally, oral evidence is led only for the purpose of proving or disproving the documents or a statement made by a party or a person. It is difficult to believe that the petitioner had desired to tender oral evidence just to prove the cultural traits. That is, also not a practice followed by the Scrutiny Committee while conducting the affinity test. We do not find any merit whatsoever in the twofold submissions made on behalf of the petitioner for challenging the impugned order. No documents were required to be supplied to the petitioner as the documents, on which the Committee relied for invalidating the caste claim of the petitioner, were supplied by the petitioner herself. We also do not find that any opportunity to the petitioner to lead oral evidence was necessary. Oral evidence cannot be led for proving the cultural traits as that is, normally not the practice followed by the Scrutiny Committee.

On a perusal of the order of the Scrutiny Committee, we find that the claim of the petitioner of belonging to Chapparband Vimukta Jati was not substantiated by a single document tendered by the petitioner. None of the 11 documents tendered by the petitioner could substantiate the claim of the petitioner that she belongs to Chapparband Vimukta Jati. In some of the documents, the entries of Fakir and Musalman were found and the Scrutiny Committee has rightly observed that the said documents could not have helped in validating the caste claim of the petitioner.

Since there is no merit in either of the submissions made on behalf of the petitioner, the impugned order cannot be

interfered with. The writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar