

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

WRIT PETITION NO.3552 OF 2015

(Inam Ur Rahman Altaf Ur Rahman Qureshi vs. Divisional Caste Certificate Scrutiny Committee No.3 and others)

---

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

---

Shri S.R. Narnaware, Advocate for petitioner.

Shri N.S. Rao, Assistant Government Pleader for  
respondent nos.1, 2, 4 and 5.

Shri N.S. Badhe, Advocate for respondent no.3.

-----  
CORAM : B.P. DHARMADHIKARI AND  
KUM. INDIRA JAIN, JJ.

DATED : JULY 5, 2016

Heard.

Inssofar as challenge to constitutionality of Rule 9 of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 or Rule 11 thereof is concerned, same is on the basis of directions issued by Hon'ble Apex Court in the case of **Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and others** (AIR 1995 SC 94) and **Kum. Madhuri Patil and**

**another vs. Addl. Commissioner, Tribal Development and another** (AIR 1997 SC 2581).

Identical contentions raised by very same learned Counsel in the case of **Ajaykumar Yadaorao Nikhar vs. State of Maharashtra and others** (2012 (1) ALL MR 280) are looked into by this Court and this Court has found that directions issued by Hon'ble Apex Court were guidelines, which did not vitiate any provision in the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Maharashtra Act No. XXIII of 2001) in State of Maharashtra. For reasons recorded therein, we find challenge to validity misconceived.

On merits, our attention is drawn to the fact that in old document dated 2/3/1924, caste has been mentioned as “Khatik”. Submission is that document is not properly looked into by the Scrutiny Committee.

The learned Assistant Government Pleader has read out relevant portion of impugned order of the Scrutiny Committee. The Scrutiny Committee has looked into that document and has further relied upon Government Resolutions dated

1/11/2001 and 10/11/2008 and it has found that a Muslim cannot be eligible to claim benefit of the Constitution (Scheduled Castes) Order, 1950.

Adv. Narnaware for petitioner submits that validity of Clause 1(3) of the Constitution (Scheduled Castes) Order, 1950 has been assailed before Hon'ble Apex Court as it restricts benefits only to Hindus, Sikhs and Buddhists. He submits that notices are issued in the matter by Hon'ble Apex Court.

In the present matter, there is no such specific challenge. The caste "Khatik" has been recognised as Scheduled Caste in State of Maharashtra. For the purpose of said Order, a person belonging to that caste must profess any of the three religions mentioned supra. Hence, in the present matter, we cannot take cognizance of such challenge.

Lastly Adv. Narnaware sought protection of education of petitioner. He points out that petitioner is now learning in last year of Petrochemical Technology Course (B.Tech.).

Shri Rao, learned Assistant Government Pleader has pointed out that caste claim of real sister of petitioner was already invalidated in 2011 itself and Scrutiny Committee has looked into that invalidation while passing the impugned order.

The petitioner has not disclosed that invalidation or further challenge thereto, if any. Even today, Adv. Narnaware has not been instructed by the petitioner about it. We, therefore, find prayer for protection also erroneous in the present matter.

In this situation, we dismiss the writ petition. However, we continue interim relief operating for a period of three months more. The same shall cease to operate automatically thereafter.

JUDGE

JUDGE

khj