

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

WRIT PETITION NO.4303 OF 2016

[Lalitkumar s/o Gangaram Vaidya .vs. Divisional Caste Certificate Scrutiny Committee No.3, Nagpur]

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

Court's or Judge's orders

Shri M.V. Bute, counsel for the petitioner,
Shri A.A. Madiwale, AGP for the respondent.

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

DATED : AUGUST 05, 2016.

By this writ petition, the petitioner challenges the notice of the scrutiny committee, dated 5.5.2015 directing the petitioner to produce the old documents prior to the year 1961 to substantiate his claim of belonging to Bhamta Vimukta Jati.

It is stated on behalf of the petitioner that the respondent-scrutiny committee was not justified in directing the petitioner to produce the old documents prior to the year 1961 in support of his caste claim. It is stated that when the petitioner had approached the Municipal Council, Movad for securing the old documents, Municipal Council, Movad, by the communication, dated 24.9.2014, had informed that the record is destroyed in the floods of 1991 and the copies of the documents cannot be supplied. It is stated that it would be necessary for the scrutiny committee to decide the claim of the petitioner on the basis of the available documents and the scrutiny committee cannot compel the petitioner to produce the documents prior to the year 1961 in support of his caste claim.

Shri Madiwale, the learned Assistant Government Pleader appearing on behalf of the respondent-scrutiny committee, states that since the caste claim is normally proved on the basis of the documents and the affinity test and since the petitioner had not

tendered the documents prior to the year 1961, the scrutiny committee must have asked the petitioner to produce such documents.

On hearing the learned counsel for the parties, we find that the scrutiny committee was not justified in compelling the petitioner to produce the documents prior to the year 1961. The scrutiny committee could have rejected the caste claim of the petitioner, if the scrutiny committee was of the view that the petitioner had not produced enough material in support of his caste claim. The scrutiny committee, however, cannot compel a candidate to produce more documents in support of his caste claim. In this case, we find, from the communication, dated 24.9.2014 of Municipal Council, Movad, addressed to the Vigilance Cell, that the old record in respect of the house property and assessment order is washed away in the floods of the year 1991. The scrutiny committee cannot refuse to decide the caste claim of a client on the ground that he has failed to produce the documents of the pre-independence era or the old documents in support of his/her caste claim. It would be necessary for the scrutiny committee to decide the caste claim on the basis of the available documents.

In view of the aforesaid, we dispose of the writ petition with a direction to the scrutiny committee to decide the caste claim of the petitioner as early as possible and positively within one year. Order accordingly. No costs.

JUDGE

JUDGE

C E R T I F I C A T E

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