

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4044/2016

(Shri Sagar Radheshyam Newargade vs. State of Maharashtra and others)

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

Court's or Judge's order

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Mr. N.S. Deshpande, Advocate for the petitioner
Mr. V.P. Maldhure, Assistant Govt. Pleader for respondent Nos.1 & 2

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

DATED : 10th August, 2016

Heard.

By this Writ Petition, the petitioner has sought a direction against the respondent no.2-Scrutiny Committee to accept the caste claim of the petitioner for verification.

The petitioner is admitted to B.Pharm course on a seat earmarked for the Other Backward Classes. The petitioner claims to belong to "Kalar" caste, that falls in the Other Backward Classes. After securing the caste certificate from the Competent Authority at Nagpur, the petitioner had tried to submit his caste claim to the Scrutiny Committee for verification. The Scrutiny Committee, however, refused to accept the caste claim of the petitioner for verification on the ground that there was no proof of the fact that the ancestors of the petitioner and/or the father of the petitioner was a resident of Nagpur on the deemed date, i.e. in the year 1967. According to the Scrutiny Committee, the petitioner was not entitled to secure the caste

certificate from the competent Authority at Nagpur, if the ancestors of the petitioner resided in Madhya Pradesh. The Scrutiny Committee asked the petitioner to produce some material of any nature, whatsoever to prove that the petitioner was a resident of Nagpur, on the deemed date, in the year 1967. The petitioner, however, did not produce the documents or any material in support of the claim that the petitioner was a resident of Nagpur, on the deemed date. The Scrutiny Committee, therefore, refused to accept the caste claim of the petitioner for verification.

We did not *prima facie* find any fault on the part of the Scrutiny Committee in not accepting the caste claim, as if it is subsequently found that the petitioner was not a resident of Nagpur on the deemed date, it would be held that the Competent Authority at Nagpur was not competent to issue the caste certificate in favour of the petitioner and the proceedings before the Scrutiny Committee would be futile. Hence, while issuing notice on the first date of hearing, we had asked Shri Mandpe the learned counsel for the petitioner to produce any material whatsoever, at least in this Court, to show that the petitioner was a resident of Nagpur, on the deemed date. Though the notice was made returnable on 1.8.2016 and the petitioner was asked to do the needful, the petitioner did not produce any material in this Court. On 4th August 2016 also, not a single document was produced by the petitioner to show that the petitioner or his ancestors were the resident of Nagpur, on the deemed date, in the year 1967. Though the counsel for the petitioner has sought time on more than a couple of occasions, to produce the documents, the documents were not

produced. We therefore, on 4.8.2016, granted a last chance to the petitioner to produce the documents and adjourned the matter for today. The petitioner was made to understand by our order dated 4th August, 2016 that if the petitioner would not produce any documents till today, this Court would consider dismissing the Writ Petition. Despite this order, not a single document is produced by the petitioner in the court today. The petitioner has dispensed with the professional services of the counsel who had argued the matter on the previous dates of hearing and has engaged another counsel. The recently engaged counsel for the petitioner also is not in a position to tender any document, in support of the fact that the petitioner or his ancestors were the residents of Nagpur, in the year 1967. No reason whatsoever is conveyed to this Court on any of the earlier dates of hearing as to why the documents that are required to be produced in this Court for considering the *bona fides* of the petitioner, are not produced in this Court. If the petitioner is not a resident of Nagpur on the deemed date and if the Competent Authority at Nagpur grants a caste certificate, the Scrutiny Committee at Nagpur would not have the jurisdiction to decide the caste claim, as the Competent Authority at Nagpur would not have jurisdiction to issue the caste certificate if the petitioner was not a resident of Nagpur, on the deemed date. The Caste Scrutiny Committee may not be justified in seeking documents in support of a caste claim but it may be justified in asking the claimant to produce at least some material in support of the fact that the claimant was a resident of a place within the territorial jurisdiction of the Competent Authority that issues the caste certificate, on the deemed date.

In the aforesaid background and in the absence of any material, we are not in a position to hold that the action on the part of the Scrutiny Committee in refusing to accept the caste claim of the petitioner is illegal and unjust. We, therefore, dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

sahare

C E R T I F I C A T E

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