

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

WRIT PETITION NO.1370 OF 2016

[Smt. Karuna w/o Shridhar Somkuwar .vs. The Divisional Caste Certificate Verification Committee
No.3, Nagpur and one]

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

Court's or Judge's orders

Shri K.V. Deshmukh, counsel for the petitioner,
Shri A.M. Joshi, AGP for the respondents.

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

DATED : JUNE 14, 2016.

By this writ petition, the petitioner challenges the action on the part of the respondent-scrutiny committee of returning the caste claim of the petitioner on the ground that the petitioner had not produced any old documents of the pre-independence era to prove her caste claim and had also not substantiated on the basis of the documents that she was a permanent resident of Bhandara on the deemed date.

The petitioner claims to belong to Mahar caste that is recognized as a Scheduled Caste. The petitioner was appointed as a Lecturer on 10.10.1989, on a post reserved for the Scheduled Castes. The caste claim of the petitioner was referred to the scrutiny committee for verification. The scrutiny committee, however, returned the caste claim on 23.1.2014 on the ground that the petitioner had failed to submit the documents prior to year 1950 pertaining to her caste. The petitioner has challenged the action on the part of the respondent-Scrutiny Committee in refusing to verify her caste claim.

Shri Deshmukh, the learned counsel for the petitioner, submitted that the grandfather of the petitioner was originally from village Kardha, Tahsil and District-Bhandara and was illiterate. It is stated that Chambruji, the grandfather of the petitioner, had two issues Jangluji and Sarjabai. It is stated that the petitioner is the daughter of Jangluji and both Jangluji and Sarjabai were illiterate. It is stated that Jangluji was an employee of Western Coalfields Limited, Nagpur and he also served as a Watchman in the Manganese Ore (India) Limited. It is stated that Jangluji had affixed his thumb impression on the service documents as he was illiterate. It is stated that the family of the petitioner did not possess any landed property and hence the petitioner could not produce any documents pertaining to the education of his father or grandfather and about the landed property. It is stated that in the absence of any education and in the absence of the possession of property, it was not possible for the petitioner to produce old documents before the scrutiny committee or the competent authority in respect of her caste claim. It is stated that the petitioner had tendered a solemn statement on affidavit before the scrutiny committee that the ancestors of the petitioner were illiterate and they did not possess any landed property. It is stated that in the circumstances like the one in the case in hand, the scrutiny committee cannot refuse to decide the caste claim. It is stated that it would be necessary for the scrutiny committee to decide the caste claim of the petitioner after taking the assistance of the vigilance cell to find out whether the statements made by the petitioner in the affidavit are true. It is stated that the full bench of this court has held in the judgment reported in **2009 (3) Mh.L.J. 995 [Shilpa Vishnu Thakur .vs. State of Maharashtra and others]** that when the claimant is not in possession of documentary evidence to meet the requirement of belonging to particular tribe and the

said fact is disclosed to the competent authority or the scrutiny committee, the scrutiny committee is bound to decide the caste claim of the candidate. It is stated that a similar view was expressed by the Division Bench of this court in the judgment reported in **2012 (3) Mh.L.J. 927 [Syed Khalil Syed Vajir .vs. State of Maharashtra and others]**. The learned counsel prayed for a direction to the respondent-scrutiny committee to decide the caste claim of the petitioner in accordance with law.

Shri Joshi, the learned Assistant Government Pleader appearing on behalf of the scrutiny committee, submitted that since the petitioner had not produced any old documents of the pre-independence era, the respondent-scrutiny committee was constrained to return the caste claim of the petitioner. It is stated that the petitioner was asked by the scrutiny committee to produce the old documents, but since they were not produced, the scrutiny committee returned the caste claim of the petitioner.

On hearing the learned counsel for the parties, it appears that the scrutiny committee was not justified in refusing to decide the caste claim of the petitioner. The scrutiny committee could not have refused to verify the caste claim of the petitioner merely because the petitioner had not produced the old documents executed prior to deemed date to show that the petitioner was the permanent resident of Bhandara on the deemed date. The scrutiny committee could not have refused to verify the caste claim of the petitioner only because the petitioner could not produce the documents executed prior to year 1950. In a case where the ancestors of the claimant are illiterate or do not possess landed property, it would not be possible for the claimant to produce old documentary material. As submitted on behalf of the petitioner in a given case where the ancestors of a claimant do not possess landed property and are illiterate, it may not be possible for the claimant to possess old documentary

evidence in respect of his/her caste claim. In the case like the one in hand, it may not be possible for the claimant to produce the documents that are executed prior to the year 1950. The scrutiny committee is entitled to conduct a vigilance inquiry and decide about the correctness or otherwise of the statements made by the petitioner on affidavit. It would be necessary for the scrutiny committee to verify the caste claim of the claimant though the claimant has not filed the documentary evidence as per the expectation of the scrutiny committee. The scrutiny committee would be required to verify the caste claim of the claimant on the available material with the assistance of the vigilance inquiry. We do not find any justification in the action of the scrutiny committee in refusing to verify the caste claim of the petitioner. While holding so, we rely on the judgments reported in **2009 (3) Mh.L.J. 995** and **2012 (3) Mh.L.J. 927**.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent-scrutiny committee is directed to verify the caste claim of the petitioner within a period of 18 months from the date of submission of the same by the petitioner. The petitioner is directed to submit the caste claim to the scrutiny committee within a period of one month in the proper format. Order accordingly. No costs.

JUDGE

JUDGE