

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

949 WRIT PETITION NO. 1381 OF 2015

Mayuri d/o Ashokshing Patil, **... Petitioner**
Age 20 years, Occu: Student,
R/o Maharana Pratap Nagar,
Yawal, Dist. Jalgaon

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai
2. The Divisional Caste Certificate
Verification Committee, Dhule,
through its Member Secretary,
Kanushri Tower, Badgujar Plot,
Parolot Road, Dhule.
3. The North Maharashtra University, **... Respondents**
Jalgaon, Through its Registrar

...

Advocate for Petitioner : Mr. Bolkar Yogesh B
AGP for Respondents State: Mr. P. S. Patil
Advocate for Respondent No.3 : Mr. A.B. Girase

**CORAM : S. V. GANGAPURWALA &
 K. L. WADANE, JJ.**

DATE : 7th February, 2017

JUDGMENT (Per S. V. Gangapurwala, J):

1. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.

2. Caste claim of the petitioner as belonging to

Rajput Bhamta, Vimukta Jati has been invalidated. Aggrieved thereby, the present writ petition.

3. Mr. Bolkar, the learned counsel for the petitioner states that earlier also, the caste claim of the petitioner was invalidated. The petitioner had approached this Court by filing writ petition No. 3010/2011. This court, under order dated 20th February, 2014, partly allowed the said writ petition and remitted the matter back to the Committee for considering affinity test and the impact of the validity certificates issued in favour of the cousin uncle and cousin sister of the petitioner. However, again the Committee failed to consider the said aspect and delivered the impugned judgment invalidating the caste claim of the petitioner.

4. The learned counsel submits that the impact of the validity certificates which are produced on record is not at all considered nor the affinity test has been conducted. The said judgment is bad in law. Only on the basis of some entries in the documents, the committee has decided the matter.

5. Mr. Patil, the learned AGP submits that the committee has threadbare considered all the aspects of

the matter. The Validity certificates were in respect of distant relatives and not in respect of close blood relatives. Even the affinity tests are conducted. There are contra documents on record. Considering the contra evidence of record, decision has been rightly taken.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. This court, under order dated 20.02.2014, in Writ Petition No.3010 of 2011, had remitted the matter back to the Committee by making following observations:

"8] The Vigilance Cell report contains the response or answers to the queries in relation to the customs, traits and characteristics of the Rajput Bhamta community.

9] The petitioner has also produced the genealogy which shows that her father's cousin brother has been issued a Caste Validity Certificate.

10] To our mind, all this material has not been considered with its impact on the ultimate conclusions. By a cryptic order and by expecting a 20 years old girl to speak about the criminal record and background of the ancestors, the committee has invalidated the caste claim.

11] Merely because the entries in relation to

the father and grandfather are not conclusive does not mean that the caste claim has to be invalidated. A proper and thorough enquiry and in the backdrop of the sociocultural affinity, has to be conducted and thereafter a finding of the nature required by the Act, has to be rendered. The Maharashtra Act No. 23 of 2001, mandates that an enquiry has to be made in terms thereof. We find that after the order of the Scrutiny Committee, there are now rules framed and which are styled as 2012 Rules. They are more comprehensive and enable the Committee to conduct a proper and complete enquiry.

12] In the result, we pass the following order :

[a] The impugned order passed by the Scrutiny Committee is quashed and set aside;

[b] The matter is remanded back to the committee for a denovo enquiry.

[c] The petitioner shall appear before the Committee, on 10th March, 2014, alongwith a copy of this order.

[d] We direct the committee to reverify and rescrutiny the caste claim of the petitioner in the light of the available material, without being influenced by the earlier order of the committee or findings recorded therein.

[e] The Committee shall pass fresh order in accordance with law, within a period of 6 months from the date of appearance of the petitioner

before it."

8. Considering the aforesaid order passed by this Court, it was incumbent upon the Committee to consider the affinity test and the impact of the validity certificates produced by the petitioner i.e. of father's cousin brother and cousin sister. It could have considered the material produced on record in the said validity proceedings so also the evidence on record produced by the petitioner in the present case. The committee, no doubt has every right to take a view of its own on the basis of documents. It has to see whether the material before the Committee while validating the caste claims of the relatives of the petitioner was the same as in the present proceedings and whether any contra evidence was not produced in the said proceedings. Without considering the same, it was inappropriate for the committee to ignore the validity certificates only on the ground that it is in respect of father's cousin brother or in respect of petitioner's cousin sister. They seem to be belonging to the same family. It was also necessary for the committee to conduct affinity test. No doubt, the affinity test cannot be the sole ground for validating or invalidating the caste claim. However, the same can

be used as corroborative piece of evidence.

9. Insptie of the fact that this court had remitted the matter by making specific observations, the Committee has failed to adhere to the same and we are again required to send the matter back to the committee.

10. Considering the above, the impugned order is quashed and set aside. The parties are relegated before the Committee.

11. The petitioner shall appear before the Committee on 20th February, 2017. The Committee shall decide the proceedings, afresh, in accordance with the observations made by this Court in the order dated 20th February, 2014 in Writ Petition No.3010/2011 and observations made herein above. The same shall be decided expeditiously, preferably within three months from the date of appearance.

12. Rule is accordingly made partly absolute. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC