

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

WRIT PETITION NO. 6320 OF 2016

Neha d/o Sundersing Thakur ...Petitioner

VERSUS

The State of Maharashtra
and others ...Respondents

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Shri M.D.Narwade, advocate for petitioner
Shri P.S.Patil, A.G.P. for respondent nos. 1 and 2
Shri R.B.Narwade Patil, advocate for respondent no.3

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

DATED : 4th January, 2017

PER COURT :-

Rule. Rule returnable forthwith. With the consent of learned counsel for the parties, taken up for final hearing.

2. The learned counsel for the petitioner submits that the petitioner has taken admission with respondent no.3 College from Vimukta Jati category. The petitioner belongs to Rajput Bhamta V.J. caste. The caste certificate of the petitioner was referred to the

Scrutiny Committee for validation. The Scrutiny Committee invalidated the said caste certificate.

3. The learned counsel submits that there is no contra evidence on record. The old documents i.e. of the real paternal grand father of the petitioner shows the caste as Rajput Bhamta. Same finds mention in the service book of the petitioner's paternal grand father. The learned counsel submits that even in respect of the real paternal uncle of the petitioner the caste is stated as Rajput Bhamta. Even in respect of the cousin brothers the same caste is mentioned. According to the learned counsel, the affinity test is not conducted by the Scrutiny Committee. In spite of this old record available, the Committee has invalidated the caste claim of the petitioner as belonging to Rajput Bhamta V.J.

4. Mr. Patil, learned A.G.P. submits that the petitioner's own school record shows the caste as Rajput and not Rajput Bhamta. The same is rightly considered. There is no record made available in respect of his father. The learned counsel submits that in view of the record of the petitioner himself i.e. belonging to Rajput caste and not

Rajput Bhamta, the petitioner could not have laid claim as to the caste as Rajput Bhamta.

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

6. The Vigilance report regarding home inquiry is on record. There is no discussion in the judgment regarding the same. It also does not appear from the text of the judgment that affinity test was conducted. Though affinity test cannot be a sole criteria for deciding the caste claim, none the less, the same is also corroborative piece of evidence. The same is required to be conducted. The documents on record will have to be considered in its totality.

7. Considering the fact that in the judgment there is no discussion about the home inquiry conducted by the Vigilance and the affinity test not being conducted, we set aside the judgment passed by the Scrutiny Committee and remit the matter back to the Scrutiny Committee for fresh adjudication.

The parties shall appear before the Scrutiny Committee on 24.1.2017. The Committee shall decide the validation proceedings in respect of the caste claim of the petitioner, after conducting affinity test and considering all the documents, so also vigilance report, expeditiously, preferably within six months from the appearance of the parties before it.

8. Rule is made absolute in part accordingly. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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