

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8482 OF 2016

PREKSHA D/O VIKAS KONDEKAR
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

Mr. D.S. Manorkar, Advocate for the petitioner
Mr. S.G. Karlekar, A.G.P. for the respondent/State

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.
DATE : 05-07-2017**

ORAL ORDER :

1. We have heard learned counsel appearing for the parties.
2. During the course of scrutiny of petitioner's claim as belonging to "Jain-Shetwal" Other Backward Class, the petitioner relied upon the family tree and the certificate of validity issued to her cousin cousin sister from the paternal side. It is stated that the family tree establishes relationship and which was supported by an affidavit of the petitioner.

3. The certificate of validity holder (cousin cousin sister) was issued a certificate of validity by the Caste Certificate Scrutiny Committee - Pune Division, Committee No.1, Solapur on 22/03/2013. That says that Kondekar Renuka Prashant belongs to Shetwal (OBC-153) Other Backward Class. The petitioner says that the entry is as appearing in the certificate of validity. This is, according to the petitioner's Advocate, a notification notifying Other Backward Classes. Jain-Shetwal or Jain-Shimpi, would at best denote the religion, but whether the Other Backward Class entry, as notified and appearing at the serial number indicated above, is the same, as is appearing in the certificate of validity in the case of Renuka, has not been determined at all. The certificate of validity issued to Renuka is discarded only on a general finding that the relationship with Renuka could not be established.

4. We are of the opinion that the Scrutiny Committee should apply its mind. It should apply its mind with reference to the notification and the entry notifying Other Backward Class. If that specifies the Other Backward Class and as also indicated against it certain synonyms, then, whether it would suffice to reject

the claim by holding that Jain is a religion and the entry Jain-Shimpi would mean that this is not Other Backward Class. If the entry is, as stated in the certificate of validity in case of Renuka, namely Shetwal, then, the petitioner's claim should have been considered as against Other Backward Class Entry 153 - Shetwal. That has not been considered. Whereas, what is tried to be introduced now is that, each of this and whether it is Jain, or otherwise, has to be synonym of Shimpi.

5. This is utter confusion and made by none else than the Scrutiny Committee. Its failure to apply its mind with reference to the notification and the entry therein and, thereafter, the documents placed including certificate of validity issued to Renuka compels us to set aside the impugned order. We proceed to quash and set aside the same. The matter is remanded back to the Scrutiny Committee for scrutiny afresh on merits and in accordance with law.

6. Until the Scrutiny Committee decides the matter in terms of our above direction, no adverse action should be taken against the petitioner as per notice dated 06/04/2017. However, no equities can be claimed by the petitioner.

7. We clarify that we have not expressed any opinion either on the wording of the entry or understanding of the parties on the point of interpretation of the same.

8. Writ Petition is disposed of accordingly.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/