

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6200 OF 2013

Smt. Namrata Anand Alhat,
age: 33 years, Occ: Service,
R/o Namrata Niwas, Shah Colony,
H.No.F-12, Govindpura,
Ahmednagar

Petitioner

Versus

01 The State of Maharashtra,
For Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.

02 The Divisional Caste Certificate
Scrutiny Committee No.1,
Division Nashik, Nashik, through
its Member Secretary.

03 The Education Officer (Primary),
Zilla Parishad, Ahmednagar.

04 The Ganesh Balak Mandir,
Mukundnagar, Fakirwada,
Ahmednagar, through its
Head Mistress.

Respondents

Mr.D.R.Irale Patil, advocate for the petitioner
Mr.K.N.Lokhande A.G.P. for Respondents No.1 & 2.
Mr.S.T.Shelke, advocate for Respondent No.3.
Mr.D.R.Korde, advocate for Respondent No.4.

CORAM : R.M.BORDE &

K.K.SONAWANE, JJ.

Reserved on : 16th August, 2016

Pronounced on: 09th January, 2017.

ORAL JUDGMENT (Per R.M.Borde, J.):

Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner claims to belong to “Mahar” caste, which is included in Scheduled Caste category. The petitioner has been appointed as Assistant Teacher in the year 2003 as against a seat reserved for Scheduled Caste category in Respondent No.4-school. The caste certificate issued to the petitioner on 13.01.2011, certifying that she belongs to Mahar caste was referred to the Scrutiny Committee for verification. The Scrutiny Committee, after observing the procedure prescribed under law and on consideration of evidence placed on record by the petitioner, came to the conclusion that the petitioner has failed to substantiate her claim and as such, by an order dated 12.07.2013, was pleased to direct invalidation of caste certificate issued in favour of the petitioner.

3 The Scrutiny Committee turned down claim of the petitioner mainly on the ground that in the school leaving certificate of the petitioner, her religion is recorded as “Christian”, as also, in the service record of the petitioner, her religion is recorded as “Christian”. The father of the petitioner has stated during vigilance cell inquiry that though he believes in Christian faith, he belongs to Mahar caste. Considering adverse evidence in the form of school leaving certificate and service record of the petitioner, the Scrutiny Committee proceeded to direct invalidation of caste certificate issued to the petitioner.

4 The old documentary record, such as school record of the petitioner of the year 1969, her uncle – of the year 1973, her cousin uncle – of the year 1974 record entry in respect of caste as “Mahar”. In the revenue records of grand father of petitioner by name Sakharam Pira Alhat, there is mention about birth of father of the petitioner Ananda Sakharam Alhat on 02.12.1951 and caste is recorded as “Mahar”. The cousin of the petitioner by name Sagar Govind Alhat has been issued validity certificate by the Scrutiny Committee on 22.12.2009. The Scrutiny Committee, after conducting local inquiry, has reiterated that family of father of the petitioner observes customs of Mahar caste although a photo-frame of Yeshu Christ finds place at the residence of father of the petitioner.

5 It does appear that the old documentary record in the form of school record of father and uncle of the petitioner as well as record maintained by the Village Panchayat in respect of birth of father of the petitioner in the year 1951 supports claim of the petitioner that the family belongs to Mahar caste. There is no evidence forthcoming to indicate that the family of the petitioner has ever embraced Christianity and abandoned Hindu religion. There is no evidence that the petitioner has embraced Christianity and has abandoned Hindu faith. Merely because father of the petitioner keeps faith in Christianity, that itself is not sufficient to infer that the family has abandoned Hindu faith and has converted to Christianity. The petitioner has emphatically stated that she belongs to Mahar caste and observes customs of Hindu religion.

6 As has been recorded in the judgment of **Chatturbhuj**

Vitthaldas Jasani Vs. Moreshwar Parashram and others, AIR 1954 SC 236, three factors need to be considered while determining the issue. (i) the reactions of the old body; (ii) the intentions of the individual himself; and (iii) the rules of the new order. If the old order is tolerant of the new faith and sees no reason to outcaste or ex-communicate the convert and the individual himself desires and intends to retain his old social and political ties, the conversion is only nominal for all practical purposes and when we have to consider the legal and political rights of the old body, the views of the new faith hardly matter.

7 In the instant matter, the petitioner asserts herself to be belonging to Mahar caste. There is no evidence that the family of the petitioner has converted to Christianity. There is also no evidence to demonstrate that the old order i.e. Mahar caste has ex-communicated or outcaste the petitioner or her family.

8 The Supreme Court, in the matter of **S. Anbalagan Vs. B. Devarajan, (1984) 2 SCC 112**, has held that ordinarily a person who had earlier embraced another religion regains his caste, unless the community does not accept him. For reconversion to Hinduism, no particular ceremony such as expiatory rites need be performed, unless the practice of the caste makes it necessary. If the convert becomes Hindu, he will revert to his original order. This appears to be particularly so in the case of members of Scheduled Caste, who embrace other religions in their quest for liberation, but return to their old religion on finding that their disabilities have clung to them with great tenacity.

9 In the instant matter, as has been recorded above, there is no evidence indicative of conversion of the petitioner to Christianity faith. As such, there is no question of returning to the old order. The disabilities, which are attached to the backward caste, remained in the case of the petitioner.

10 In the matter of K.P.Manu, **Chairman Vs. Scrutiny Committee for Verification of Community Certificate, AIR 2015 SC 1402**, the Supreme Court, in paragraph 34 of the judgment, has observed that, three things that need to be established by a person who claims to be a beneficiary of the caste certificate, are - (i) there must be absolutely clear cut proof that he belongs to the caste that has been recognized by the Constitution (Scheduled Castes) Order, 1950; (ii) there has been reconversion to the original religion to which the parents and earlier generations had belonged; and (iii) there has to be evidence establishing the acceptance by the community. If a person who is born to Christian parents who had converted to Christianity from the Scheduled Caste Hindu can avail the benefit of the caste certificate after his embracing Hinduism subject to other qualifications, there cannot be any soundness of logic that he cannot avail the similar benefit because his grandparents were converted and he was born to the parents who were Christians.

11 In the matter at hand, there is no evidence that the parents of the petitioner have embraced Christian religion. Even if assuming that there is conversion, it is nominal and not real. Even otherwise, the petitioner has retained old order, has embraced Hindu faith and there is evidence to demonstrate that she has

been accepted by the community as member of Mahar caste.

12 The Scrutiny Committee has overlooked the basic principle while declining to grant validation certificate in favour of the petitioner. The order of the Scrutiny Committee, invalidating the caste certificate issued to the petitioner, is erroneous and deserves to be quashed and set aside and same is accordingly quashed and set aside.

13 The Scrutiny Committee is directed to issue validity certificate to the petitioner, certifying that she belongs to "Mahar", Scheduled Caste in prescribed proforma, as expeditiously as possible and preferably within a period of four weeks from today.

14 Rule is made absolute accordingly. There shall be no order as to costs.

(K.K.SONAWANE)
JUDGE

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(R.M.BORDE)
JUDGE