

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10045 OF 2015

Jayashree Ashoksing Rajput

..Petitioner

Vs.

State of Maharashtra and Others

..Respondents

Mr. P. D. Dalvi a/w Mr. Tushar L. Pimple and Mr. Pritam Nigade,
for the Petitioner.

Ms. Sushma Bhende, AGP, for the Respondent Nos.1 and 2.

Mr. Rishikesh M. Pethe, for Respondent No.3.

**CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- JANUARY 18, 2017.

P. C.:

By this Petition under Article 226 of the Constitution of India, the Petitioner has challenged the order passed by the Scrutiny Committee-Respondent No.2 refusing to validate the tribe claim. The Petitioner's claim is that he belongs to Rajput Bhamta de-notified tribe.

2 Mr. Dalvi appearing for the Petitioner submitted that the Petitioner had during the course of his arguments and submissions relied upon a document and that is not examined at all. The Petitioner relies upon document no.5 which is the school leaving certificate of the father of the Petitioner. That was issued by Zashichi Rani Kanyashala No.4 for girls, Pune. It is observed that Zashichi Rani Kanyashala being a girl school, the Petitioner's father could never have been admitted to the same nor could have undertaken any studies in that school. That is a patent error.

3 Mr. Dalvi, therefore, relies upon the additional affidavit of the Petitioner filed in this Writ Petition from running page 39. In this affidavit, the Petitioner asserts that her father is Gulabsing Ramsing Pardeshi. There is no dispute about the family tree or genealogy. Gulabsing studied in Pune Municipal Corporation's School No.1. That was a boys school. He was studying in the year 1936. However, the school leaving certificate shows that the issuing authority is this girls school. That is why the Petitioner approached the Chief Executive Officer, Education Department, Pune Municipal Corporation. She made a written application on 16th December, 2016. On the said application, a

clarification was given by this Education Department on 17th December, 2016 which shows that the Pune Municipal Corporation's School No.1 boys school was merged into Zashichi Rani Girls School No.4 for administrative purposes. This merger came much after the Petitioner's father ceased to be the student.

4 It is on this specific contention of Mr. Dalvi that on the earlier occasion and even today, we called upon Ms. Bhende appearing for Respondent Nos. 1 and 2 to justify the conclusion in the impugned order.

5 Ms. Bhende would submit that a doubt has been expressed not only with regard to this document, there are several other documents in some of which there are subsequent insertions. In that regard, she relied upon a document styled as a school leaving certificate issued to one Dipaksingh Gulabsing Pardeshi. It is stated by her that the said Dipaksingh is a real brother of the Petitioner. In his case, earlier entry in the general register of the school attended by him is scored off and some subsequent insertions have been made or in blank space where there was no entry earlier, a new entry is inserted with regard to

this individual student. Therefore, the committee's ultimate conclusion is justified and should not be interfered with.

6 We have heard both sides and true it is that a overall view can be taken by the committee. Even if all the documents were scrutinized eventually weightage is given to some of them or the contents of some of these documents are relied in preference and precedence over others. That is something which never concerns a writ court. Neither the sufficiency or adequacy of the material or reasons would straightaway justify interference in the writ jurisdiction. However, this case is slightly different one. Here the document specifically placed on record has been completely omitted from consideration by the committee. The committee has not expressed any opinion in the impugned order particularly with regard to the school leaving certificate of the Petitioner's father and issued in the above circumstances. The committee was obliged to consider this document as it was a vital piece of evidence. How that has to be considered, its contents interpreted, is entirely for the committee and we do not wish to bind the committee in that regard at all. However, we have not found any reference to this document in the impugned order and

nor on this aspect any light is thrown by the learned AGP. In such circumstances, in the light of the additional affidavit placed before us, we quash and set aside the impugned order with a direction to the committee to reexamine and reverify the claim of the Petitioner. The committee shall carry out this exercise and endeavour and complete it as expeditiously as possible and within a period of eight weeks from the date of receipt of a copy of this order. The committee shall pass a fresh order and not influenced by the earlier orders and conclusions. However, beyond emphasizing the duty and obligation of the committee, we have not expressed any opinion on the merits of the controversy or the contents of the school leaving certificate of the Petitioner's father. Equally, we have not directed the committee by this order to omit any other document placed on record by the petitioner nor the recommendations in vigilance cell report. The Writ Petition is allowed in these terms. The Petitioner shall appear before the committee on 1st February, 2017 at 11.00 a.m.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)