

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10349 OF 2017

Sneha d/o Digambar Machewad

Age : 19 years, Occ.: Student,

R/o : Talegaon (Bhokar),

Tal. Deoni, District Latur

.... Petitioner

Vs.

1 The State of Maharashtra

Through : Director of Mocial Admn,
Mumbai – 32

2 Scrutiny Committee for Scheduled Tribes,

Through Vice-Chairman, Aurangabad

3 Commissioner & Competent Authority,

State CET Cell/ NEET,
Maharashtra State, Mumbai

4 Govt. Dental College, Mumbai

Through Principal

.... Respondents

Mr. S.M. Kulkarni, Advocate for the Petitioner.

Mr. A.A. Kumbhakoni, A.G., Mr. Akshay Shinde, Special Counsel
a/w Mr. Sandeep L. Babar, AGP for the respondents-State.

**CORAM : SHANTANU S. KEMKAR &
G.S. KULKARNI, JJ.**

DATE : 3 OCTOBER, 2017

ORAL JUDGMENT (PER SHANTANU S. KEMKAR, J.) :

1 Rule. Rule made returnable forthwith.

2 The petitioner has filed this petition under Article 226 of the Constitution of India challenging the order dated 1st September, 2017, Exhibit “F” passed by the second respondent-Caste Scrutiny Committee for Scheduled Tribes whereby the caste certificate issued to the petitioner in respect of claim of “Koli Mahadev” scheduled tribe has been rejected and the certificate has ordered to be confiscated and offence has been ordered to be registered against her.

3 Briefly stated that the petitioner claiming herself to be of Koli Mahadev caste of Scheduled Tribe applied for issuance of caste certificate. After necessary enquiry, the caste certificate was

issued by the Competent Authority/ Sub Divisional Officer. The said certificate was thereafter produced for validation before the second respondent-Committee. In support of her claim, the petitioner had submitted before the Committee as many as 28 documents including Caste Validity Certificate issued by the Committee in favour of her father Digambar Trembak Machewad, uncles viz. Dayanand Trembakrao Mache, Pandhari Trambak Mache and Santosh Trembakrao Mache. Apart from the aforesaid validity certificates, the petitioner also submitted Caste Certificates of her close relatives, school admission extracts and school leaving extracts of the close relatives and importantly a pre-constitution document of her grandfather-Ambaji Hanumant Mache, which is of the Nizam Year 1352, which as per learned counsel for the parties by adding 590 years comes to the English calendar year 1942 (pre-constitution).

4 The Committee conducted enquiry of these documents through it's Vigilance Cell and after receipt of the Vigilance Cell's

report vide impugned order, rejected the petitioner's claim, on the basis of two documents pertaining to petitioner's third cousin of the years 24 June, 1966 and 14 July, 1977 respectively in respect to school admission extract.

5 Learned counsel for the petitioner submits that the Committee has committed error in discarding the vital documents i.e. four validity certificates issued in respect to the petitioner's father, three uncles as also committed error in ignoring the pre-constitution documents in respect of her grandfather. In support of his contention, the petitioner has relied on judgment of this Court in the case of *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and Others*¹, as also in the law laid down by the Supreme Court in the case of *Raju R. Vasave vs. M.D. Bhivapurkar*².

1 2010 (6) Maharashtra Law Journal, 401

2 (2008) 9 SCC, 54

6 From the aforesaid judgments, it is clear that in the absence of any fraud, misrepresentation, order being without jurisdiction or there is ignorance of any vital documents while granting previous validity certificate, the validity certificate of near relatives of the claimant cannot be discarded.

7 Learned counsel for the petitioner has pointed out that the reliance of the Committee on the two documents about the petitioner's third cousin namely Laxman Vitthal Koli is of no consequence as though his name is shown in genealogy, but he belongs to a different branch of the family and in respect of the petitioner had not submitted any vigilance certificate. Learned counsel for the petitioner placed reliance on Form "F" read with Rule 11(2)(a) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of), Certificate Rules, 2003 to contend that the genealogical tree is to be submitted for showing the relations with the relatives, whose validity certificates are enclosed to the application and mentioned therein.

8 On the other hand, learned AGP has supported the
impugned order passed by the Committee.

9 We have perused the Vigilance Report dated 26 August
2017 produced before us by the learned AGP. On a close scrutiny
of the same, it is clear that the only two documents have been
referred by the Vigilance Cell, which are relating to third cousin of
the petitioner, namely Laxman Vitthal Koli and Vyankat Vitthalvao
Koli. These documents are of the year 1977 and 1966 of Zilla
Parishad Schoo, Talegaon. These documents are not pre-
constitution documents, whereas the petitioner, in support of her
claim had submitted not only three pre-constitution documents but
also four validity certificates in respect of her close relatives
including father. It is also clear from the report of the Vigilance
Cell that Vigilance Cell has not disputed the documents produced
by the petitioner but has referred in respect of two documents in
which the entry of 'Koli' is recorded. In the circumstances, in our

view on the basis of some stray entries in respect to the distant branch of the petitioner, the vital documents, which the petitioner had produced for validation of her claim cannot be brushed aside and overlooked.

10 In the circumstances, in our considered view, the findings recorded by the Scrutiny Committee are contrary to the law laid down by the Division Bench of this Court as also Supreme Court in the case of *Apoorva d/o Vinay Nichale and Raju R. Vasave vs. M.D. Bhivapurkar (supra)*.

11 As a result, we allow this petition and set aside the impugned order of the Committee and direct the Committee to issue to the Petitioner caste validation certificate forthwith, on receipt of authenticated copy of this order.

(G.S. KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)