

Sharayu.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST.) NO. 27472 OF 2017

Mr. Jayashri Madhavrao Thawale ...Petitioner

Versus

State of Maharashtra & Ors. ...Respondents

Mr. R.N. Kachave, for the Petitioner.

Mr. N.C. Walimbe, AGP, for the Respondents No. 1
to 5.

**CORAM : SMT. VASANTI A NAIK AND
 RIYAZ I. CHAGLA, JJ.**

DATE : 8 November 2017

ORDER :

By this writ petition, the petitioner challenges the order of the Scheduled Tribe Certificate Scrutiny Committee, Nashik, dated 11th September 2017 invalidating the claim of the petitioner of belonging to Koli Mahadev Scheduled Tribe.

The petitioner who claims to belong to Koli Mahadev Scheduled Tribe had contested the election of the grampanchayat for the seat reserved for the Scheduled Tribes. After the

petitioner was elected, her caste claim was sent to the scrutiny committee for verification and the scrutiny committee has invalidated the claim of the petitioner by the impugned order, dated 11th September 2017.

Inter alia the learned counsel for the petitioner submitted that the order of the scrutiny committee is vitiated, inasmuch as the documents tendered by the petitioner before the scrutiny committee were not considered and dealt with, by the scrutiny committee before invalidating the petitioner's caste claim. It is stated that though the petitioner had tendered a copy of the caste validity certificate issued in favour of Rajesh Ramdas Thavale, the son of the cousin brother of the petitioner's husband, the said document was not considered while deciding the caste claim though it has great value. It is submitted that certain other documents tendered by the petitioner are also not considered by the scrutiny committee and the caste claim of the petitioner is rejected only by referring to three documents unearthed by the vigilance cell during the enquiry. It is stated that while considering the documents unearthed by the vigilance cell, it was necessary for the scrutiny committee to have considered the documents tendered by the petitioner also.

Mr. Walimbe, the learned Assistant Government Pleader appearing for the respondents has supported the order of the scrutiny committee. It is submitted that since in the old documents

pertaining to the near relatives of the petitioner, 'Koli Mahadev' was not recorded in the caste column and some other caste was recorded, the scrutiny committee rightly rejected the claim of the petitioner. The learned assistant Government Pleader sought for dismissal of the writ petition.

On a perusal of the impugned order and the documents annexed to the writ petition, we find that the scrutiny committee was not justified in rejecting the caste claim of the petitioner without considering and dealing with the documents tendered by the petitioner before the scrutiny committee. No doubt, the scrutiny committee could have relied on the documents that were unearthed by the vigilance cell during the enquiry, but while considering those documents, it was necessary for the scrutiny committee to have considered the documents tendered by the petitioner. The petitioner had tendered a copy of the caste validity certificate issued by the scrutiny committee in favour of Rajesh Ramdas Thavale, the near relative of the petitioner, but the said document was not considered by the scrutiny committee. In view of non consideration of material documents while deciding the caste claim, the order of the scrutiny committee would be vitiated.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the scrutiny committee for deciding

the caste claim of the petitioner afresh on merits, in accordance with law. It is needless to mention that the *ad-interim* relief granted by this Court, would operate till the caste claim of the petitioner is decided. The petitioner undertakes to appear before the scrutiny committee on 4th December 2017 so that the issuance of notice to the petitioner could be dispensed with.

Order accordingly. No costs.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A NAIK, J.]