

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

WRIT PETITION NO. 6572 OF 2017

Malanbee d/o Babansab Shaikh @
Malanbee w/o Maheboobsabh Shaikh,
Age : 62 years, Occu. : Sarpanch,
R/o. Walki (Bk), Tq. Kandhar, Dist. Nanded. Petitioner...

Versus

1. The State of Maharashtra,
through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. Scheduled Caste, Vimukta Jati,
Nomadic Tribe, Other Backward Class and
Special Backward Category,
District Caste Certificate Scrutiny Committee,
Nanded, through its Member Secretary.
3. Collector, Nanded, Dist. Nanded.
4. Tahsildar, Loha, Dist. Nanded. Respondents...

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Mr Sagar S. Phatale, Advocate for the petitioner
Mr C. S. Kulkarni, AGP for respondent/State
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**CORAM : PRASANNA B. VARALE &
MANISH PITALE, JJ.
DATE : 27TH AUGUST, 2018.**

ORAL JUDGMENT [PER PRASANNA B. VARALE, J.] :-

1. Heard. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

2. By this petition, the petitioner challenges the order passed by the Scrutiny Committee dt. 27.02.2017, thereby invalidating the caste claim of the petitioner. The petitioner submitted her claim to the Scrutiny Committee that the petitioner belongs to 'Pinjari' caste and as such is entitled to receive the certificate accordingly.

3. The notice is already issued by this Court to the respondents. The learned Asst. Government Pleader vociferously submitted that the order passed by the Scrutiny Committee itself is a self-speaking order. He submits that the Scrutiny Committee undertook the exercise of verification of the documents submitted by the petitioner in support of her claim. The documents submitted by her show that, in each and every document the social status of the petitioner is recorded as 'Muslim', which is a religion and not a caste. Learned Asst. Government Pleader also submitted that, the Committee, on perusal of the original documents, referred to certain mischief played by the petitioner.

4. Mr Sagar Phatale, the learned counsel for the petitioner, though vehemently submitted that there is non-observance of the procedure under Rule 17(11)(i) of the Maharashtra Scheduled

Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (Mah. XXIII of 2001) (hereinafter referred to as “Rules of 2012”), he further submitted that it was the duty of the Scrutiny Committee to grant an opportunity to the petitioner to substantiate her claim by proving the affinity test.

5. Considering the material available on record, we are unable to accept any submission of the learned counsel for the petitioner. The scrutiny Committee in its order impugned in the petition referred to all the procedural aspects. The Scrutiny Committee referred to the documents submitted by the petitioner in support of her claim viz. caste certificate issued to the petitioner by the Sub-Divisional Officer, Kandhar, the School Leaving Certificate of the Zilla Parishad (Primary), Kapsi, Tq. Loha, issued in favour of the brother of the petitioner, the copy of the service book of the brother of the petitioner, copy of the school leaving certificate issued by the Headmaster of Shri. Shivaji Education Society, Kandhar to the brother of the petitioner and the affidavit of genealogy submitted by the petitioner herself. In all these documents, except the genealogy, each and every document issued by the State officials or the school

authorities clearly show that the social status of the petitioner is recorded as a candidate belonging to Muslim religion and not a single document shows that the petitioner belongs to 'Pinjari' caste.

6. Though it was submitted by the learned counsel for the petitioner that there is non-observance of the procedure under the Rules of 2012 and no opportunity of personal hearing was granted to the petitioner, the order impugned clearly states that the petitioner was granted an opportunity of personal hearing. Thus, it makes clear that the petitioner was given an opportunity of hearing. The counsel for the petitioner then also made a submission that, it was for the scrutiny committee to assess the claim of the petitioner on the aspect of affinity test.

7. We are unable to persuade ourselves to accept the submissions of the counsel for the petitioner for the simple reason that the petitioner thoroughly failed to produce any such material on record so as to establish her claim to be belonging to Pinjari caste. The scrutiny committee has also specifically referred to in clause 'B' at page 4 of its order, that the petitioner also played some mischief by tampering the documents. The committee also referred to in its order that, though the petitioner submitted a document stating that it is the

certificate issued by the Police Patil at Walki (Bk.), the said Police Patil herself made a statement before the committee that no such document was issued to the petitioner. The Committee also observed that there was an attempt of interpolation on document and the document was tried to be tampered by applying whitener. Considering all these facts, the committee has invalidated the caste claim of the petitioner.

8. In view of the above, we find, no error is committed by the Committee in holding that the petitioner has utterly failed to establish her claim to be belonging to 'Pinjari' caste.

9. The petition thus being devoid of merits, stands dismissed. Rule is discharged.

[MANISH PITALE]
JUDGE

[PRASANNA B. VARALE]
JUDGE