

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7529 OF 2018

Ashwin Rajendra Parate

.... Petitioner

Vs.

State of Maharashtra & Others

.... Respondents

Mr. R.K. Mendadkar with Mr. Tanaji Jadhav,
Ms Komal Gaikwad & Mr. Chintamani Bhangoji
for the Petitioner.

Mr. V.M. Mali, AGP, for the Respondent-State.

Ms Snehal A. Govekar, Senior Research Officer &
Member, CSC, present.

Mr. S.M. Kakade, Law Officer, CVC, Nashik, present.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JULY 18, 2018

P.C:

1. The petitioner has approached this Court complaining that the 2nd respondent/Committee was approached after the petitioner was admitted against a reserved seat in the 4th respondent/College. The 3rd respondent/Directorate of Technical Education held the petitioner eligible for being

admitted to the Engineering Degree Course on the strength of a Caste Certificate, copy of which is at Exhibit-A. The petitioner then forwarded this Caste Certificate on 21-6-2013 to the 2nd respondent/Committee. Even the College moved the Committee and requested it to expedite the proceedings of scrutiny and verification. The petitioner was undergoing the course at the said College and despite he appearing for the First Year Examination, he was not issued any Certificate of Validity. Resultantly, after follow-up, a writ petition was filed by the petitioner in this Court being Writ Petition No.6246 of 2014. That writ petition was disposed of by this Court on 4-2-2015 by the following order:-

“Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsel for the parties.

By this petition, the petitioner seeks a direction to the respondent No.2 – Scrutiny Committee to decide the caste claim of the petitioner as early as possible. The petitioner also seeks a direction to the respondent No.3 to protect the admission of the petitioner till his caste claim is decided.

According to the petitioner, though the caste claim of the petitioner was referred to the respondent No.2 – Scrutiny Committee long back, the respondent No.2

Committee has not decided the same till date. It is stated that a direction be issued to the respondent No.2 - Committee to decide the caste claim of the petitioner and since the petitioner is not at fault, the education of the petitioner should be protected till his caste claim is decided.

Mr. Mali, the learned Assistant Government Pleader, appearing on behalf of the respondent Nos.1 and 2, states on instructions that the caste claim of the petitioner is pending before the Scrutiny Committee and the vigilance report is called from the Vigilance Cell of the Nagpur Committee as the petitioner originally resided in the Nagpur district. It is stated that as soon as the vigilance report is received, further steps would be taken and the caste claim would be decided as early as possible.

In view of the aforesaid statement, the writ petition is partly allowed. The respondent No.2 Scrutiny Committee is directed to decide the caste claim of the petitioner as early as possible and positively within a period of 9 months from the date of appearance of the petitioner before the Scrutiny Committee. The petitioner undertakes to appear before the Scrutiny Committee on 3.3.2015 so that notice to the petitioner could be dispensed with. Since the petitioner was not at fault in not producing the caste validity certificate, the education of the petitioner is protected till the caste claim of the petitioner is decided. The petitioner may be permitted to appear at the examination and the results of the petitioner should also be declared.

Rule is made absolute in the aforesaid terms with no order as to costs."

2. Though the petitioner was following up the matter even thereafter, the Committee failed to comply with this Court's

order. The petitioner was forced to file a contempt petition. In the meanwhile, the petitioner completed his studies in the Engineering Degree Course, was declared passed/successful but the Mark-sheet has not been issued for his failure to submit the Caste Validity Certificate.

3. When this matter was called out, the Legal Officer attached to the second respondent/Committee is present. Despite his presence, Mr. Mali, learned AGP, could not point out any reason other than the pendency of the vigilance proceedings for not being able to decide the matter of the petitioner. The very reason given by Mr. Mali today, that the vigilance report is called from the Vigilance Cell of the Nagpur Committee as the petitioner originally resided in Nagpur District, was mentioned in the earlier round. Now the only change is that this Nagpur Vigilance Cell has refused to co-operate with the 2nd respondent. This hardly impresses us. There is an order passed by this Court which binds the Committee. The Committee ought to have pointed out its difficulty if it was unable to conclude the proceedings within the time schedule prescribed in this Court's

order. It does nothing of that kind. There is never any request made in writing for extension of time to this Court. There is a sanctity attached to the orders of this Court. The orders cannot be defeated and frustrated in this manner and possibly the 2nd respondent/Committee, unlike the other Government Departments and parties before this Court, feels that even if it does not abide by this Court's orders and directions, it can get away by such excuses as have no basis and repeatedly stated before this Court. We wish to inculcate some discipline for it is not that we derive pleasure in admonishing the Members of the Committees by asking them to remain present in this Court or passing adverse remarks against them. We are forced to do this because we have virtually been flooded with writ petitions of this nature from the past several decades since the Maharashtra Act No.23 of 2001 {*the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000*} has been brought into effect. If the Government of Maharashtra and its

concerned Department have been unable to set-up infrastructure, provide staff to the Scrutiny Committees and also arm them with necessary base for research, police assistance in the form of Vigilance Cell, all not done in an *ad hoc* manner but as a permanent structure, then, that by itself is no ground to defeat the mandate of the Act and the orders of this Court. We have been noticing that the Act is serving no purpose though it is in force for more than 17 years. Firstly, the Act itself was brought into force, but without any set of rules so as to work it out. The Rules were framed as late as 2003. Even after the Rules were brought into force, there are other set of rules which took their own time to be brought into force and become operative. Without any preparatory steps, the Act was introduced and later on it proved to be a meaningless and futile legislation. Ordinarily, Civil Court was performing these functions but the Act ousts the jurisdiction of the Civil Court in these matters and which are covered by the Act. We do not think that we should enlighten the State any further.

4. The above reasons are enough justification for

imposition of costs. We impose costs of Rs.50,000/- (Rupees Fifty Thousand) on the second respondent/Committee and to be paid by it within a period of four weeks to the petitioner. In the meanwhile, let the 4th respondent issue the original Mark-sheet, Leaving Certificate and the Degree Certificate, subject to production of this Certificate of Validity. Since this Institution had also to suffer by giving subsidised education to the petitioner, we direct the petitioner to obtain the above documents but he must comply with the condition of paying the fees to the Institution as an open category candidate. He can thereafter seek refund of the same on production of the Certificate of Validity.

5. The officers/Members of the concern Committee to pay the costs personally and in the event they are not able to pay the same within four weeks, the State shall deduct it from their salaries so as to pay the amount to the petitioner.

6. With the above directions, the petition is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)