

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8392 OF 2018

Kum. Mohini Deepak	}	
Suryawanshi	}	Petitioner
versus		
The State of Maharashtra }		
and Ors.	}	Respondents

Mr. R. K. Mendadkar for the petitioner.

Mr. S. B. Kalel-AGP for State.

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

DATE :- AUGUST 10, 2018

P.C. :-

1. This petition under Article 226 of the Constitution of India challenges the order passed by the Scrutiny Committee on 24th July, 2018.

2. The petitioner says that she is residing in Pune District and she has approached firstly, the fourth respondent-competent authority for issuance of a caste certificate. That was issued in her favour on 26th June, 2018. Even to obtain that certificate, she had to wage a battle. After the caste/tribe certificate was issued setting out that she belongs to Thakar Scheduled Tribe, by relying on it, she participated in the rounds of admission for

MBBS Degree Course. That is for the academic year 2018-19 pursuant to the National Eligibility-cum-Entrance Test (NEET).

3. After that, this certificate was forwarded for scrutiny and verification to the competent Scrutiny Committee and it is on 24th July, 2018 that it was invalidated. The petitioner alleges that this certificate of validity should have been issued as a matter of course, because this very Scrutiny Committee has issued validity certificates to the father and cousin uncle of the petitioner. This vital piece of evidence and having great probative value has been discarded by assigning reasons, which are wholly untenable.

4. When this matter was placed before us, we heard both sides and we invited the attention of the petitioner's advocate Mr. Mendadkar to the observations and findings in the impugned order. While it is true that the petitioner's father is issued a certificate of validity on 24th May, 2005, it is evident that the Scrutiny Committee has now reopened the cases of all such persons, whose certificates of validity are shrouded in mystery and suspicion. There is a ring of suspicion because in the pre-constitutional and old documents, the entries against the caste column are found to be Hindu Maratha. There is a overwriting, in the sense, the insertion "Maratha" is scored of and cancelled and

substituted by the word "Thakar". This is, therefore, a clear case of interpolation, overwriting and tampering with the records pertaining to the admission to the school of the predecessors in title. At the same time, the two certificates of validity granted to the petitioner's father and one Haridas Shamrao Surwase, the cousin uncle from the paternal side have not been cancelled. They are in force and are valid for the past nearly two decades.

5. In these circumstances, we inquired from the learned AGP and he says that the Scrutiny Committee will have to initiate process of recalling its orders issuing certificates of validity, if they are found to be tainted with fraud or misrepresentation of facts. The Scrutiny Committee may be allowed to do so.

6. We do not intend to foreclose the issue, for certificates of validity may have been issued and are in force for decades together, but the issuance, if found to be vitiated by fraud or misrepresentation of facts, then, from inception, the same would render these certificates invalid. Their issuance, therefore, itself is contrary to law.

7. Having found that the petitioner's father has been issued a certificate of validity and today the petitioner has been completely excluded from the process of admission in the absence

of a certificate of validity on the condition that if the petitioner's father's certificate of validity is cancelled in future, the petitioner will be visited with all consequences, including cancellation of her present admission to the MBBS Degree Course and no equities can be claimed thereafter, we allow the petition.

8. In the presence of the petitioner's father, we direct the Scrutiny Committee to issue a certificate of validity to the petitioner. Let the petitioner participate in the rounds strictly in accordance with the rules. It is entirely for the authority in-charge of the admission process to decide whether the petitioner should be admitted or allowed to take advantage or benefit of this order.

9. The writ petition is allowed in these terms. There would be no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)

Jayant
Vishwanath
Salunke

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