

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8553 OF 2018

Aishwarya Manohar Deore .. Petitioner
Versus
State of Maharashtra through
its Secretary and ors .. Respondents

...

Mr. R.K. Mendadkar for the petitioner.
Mr. S.B.Kalel, AGP for the State.

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

DATED : 3rd AUGUST, 2018

P.C:-

- 1 We have heard both sides.
- 2 The papers in this writ petition were produced in the morning session because the petitioner was served with a copy of the impugned order dated 27th July 2018 passed by the 2nd Respondent Committee invalidating her claim towards Thakur Schedule Tribe (Entry no.44 in the Presidential Notification).

3 We are of the view that the only contention raised by Mr.Mendadkar appearing in support of this writ petition is enough to quash and set aside the order.

4 On 27th July 2018, when the Committee passed the impugned order, the petitioner appeared before the Committee along with her father Manohar Bhagwan Deore. Manohar Bhagwan Deore has been issued a certificate of validity by the Scheduled Tribe Scrutiny Committee, Nashik Division on 25th November 2005. That was issued after a detailed order was passed by a Division Bench of this Court at Aurangabad in Writ Petition No.4593 of 2004 decided on 22nd August 2005. This Court considered the matter from all angles, appreciated and appraised the factual and other relevant material and came to the conclusion that Manohar (the father of the petitioner) is Thakur Schedule Tribe and held that the order invalidating his claim is contrary to law and therefore, quashed and set aside. In the operative part of the judgment, in Manohar's case, this Court directed as under :

“In the result, the Writ Petition is allowed.

- (a) The impugned order dated 14-5-1987 passed by the respondent no.3 in proceedings bearing No.TCSC/EDN-NS-38/DMB, so also, order dated 30-3-1989 passed by the responded no.2, in Caste Appeal Case No. 65/1987, invalidating the tribe claim of the petitioner, are quashed and set aside.
- (b) We declare that the petitioner belongs to Thakur, Scheduled Tribe.
- (c) We direct the respondent no.4, Scheduled Tribe Caste Certificate Verification Committee at Nashik, to issue the Caste Validity Certificate in favour of the petitioner as belonging to 'Thakur', Scheduled Tribe.
- (d) Rule made absolute in the above terms. In the circumstances of the case, there shall be no order as to costs”.

5 There is no reason why this certificate of validity, as also issued to other close relatives from the petitioner's side, as is evident from the judgment and order of this Court at Aurangabad, copy of which is from page 30 to 37 of the paper

book, was not enough to allow the petitioner's claim. The Committee has considered irrelevant and extraneous material and ignored a binding judgment. The Committee could not have doubted the claim of the petitioner's father by merely observing that there is an admission extract showing the caste of the applicant – petitioner's cousin grand father as 'Bhat', thus, the family does not belong to the Thakur Schedule Tribe, but is a Bhat. This argument was canvassed even when the Division Bench at Aurangabad considered the claim of other family members, including Prajakta Ashok Deore and Swapnil Ashok Deore. Thus, this is not a case where the issue is alive and open. The certificate of validity issued to petitioner's father has not been cancelled on the ground of fraud or suppression of material facts. It is in force for the past nearly thirteen years. In such circumstances, the impugned order is entirely perverse. It is vitiated by an error of law apparent on the face of record. Hence, the petition succeeds.

6 Rule is made absolute in terms of prayer clauses (a) and (b).

7 The petitioner shall be issued a certificate of validity latest by 11.00 am on 4th August 2018 so that she can participate in ongoing admission process for admission to the Health Science Degree course for the Academic Year 2018-19.

8 There will be no order as to costs.

9 Learned AGP to communicate this order to the 2nd Respondent Scrutiny Committee today itself.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)

Manali
Prasanna
Tilak

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Prasanna Tilak
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