

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9064 OF 2018

Gayatri Anil Bagul	.. Petitioner
Versus	
State of Maharashtra & ors	.. Respondents

...

Mr. R.K.Mendadkar for the petitioner.
Mr. B.V. Samant, AGP for the State.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H.DANGRE, JJ.
DATED : 13th AUGUST 2018

P.C:-

1 After having heard both sides, we do not find any reason to depart from our earlier orders and in relation to the same Scheduled Tribe Thakur.

2 By the impugned order passed on 10th August 2018, the Scrutiny Committee at Nandurbar has omitted from consideration a vital document. That vital document is a certificate of validity issued to the petitioner's father Anil. The petitioner's father appeared before the Committee. His name is

Tilak

Anil Ramdas Bagul. He was issued a certificate of validity and the Committee is aware of this fact. That certificate of validity has been issued by the Nandurbar Committee way back on 16th November 2004. The present Committee purports to sit in Appeal over the finding of the Nandurbar Scrutiny Committee's order granting such certificate of validity. Even that reasoning does not inspire any confidence. Pertinently, the present Scrutiny Committee does not say a word about several entries pertaining to caste recorded in the school admission extract of the petitioner's cousin great grandfather, grandfather, cousin grandfather and which three documents are of 14/6/1939, 3/3/1951 and 13/7/1964. There is no reason why the caste is recorded in a 1939 document as 'Thakur' if the parties before the Committee are not Thakurs, but Brahmabhats or Bhat. Thus on some untenable grounds, the certificate of validity issued to the petitioner's father has been discarded. The order of the Scrutiny Committee is thus perverse. It is vitiated by total non-application of mind. It has prejudice and apparent bias against every person who approaches it with the certificate issued by the competent authority showing the caste as 'Thakur

Scheduled Tribe', Entry No.44 of the Presidential Order of 1950. It is merely because some of these persons have migrated from the original area inhabited by them, that on the ground of migration, the certificate of validity is denied if not by discarding the relevant documentary evidence. That relevant and vital documentary evidence like a certificate of validity issued to very close relative like father and brother/sister is discarded by applying a test of cultural affinity.

3 The Scrutiny Committee refers to judgments of this Court in bits and pieces and without realizing that some of these judgments and the ratio therein has been explained later on. Further, there are binding Supreme Court judgments and delivered as far back as in March 2017 find no reference in the Scrutiny Committee's order.

4 As a result of this, and on the eve of the petitioner's educational career, such orders are passed by the Scrutiny Committee.

5 We quash and set aside the impugned order and direct that a certificate of validity shall be issued to the petitioner before 12 noon on 14th August 2018. In the meanwhile, respondent nos.3 and 4 shall proceed on the basis that the order passed by this Court directing certificate of validity to be issued to the petitioner can be safely relied upon, to confirm the admission of the petitioner.

6 Needless to say that in the event there is any inquiry initiated as regards the certificate of validity issued to the petitioner's father, the outcome thereof shall bind the petitioner as well.

7 Writ Petition is allowed in these terms.

8 The learned AGP to communicate this order to the Scrutiny Committee, Nandurbar forthwith.

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

Manali
Prasanna
Tilak

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Prasanna Tilak
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