

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3511/2018

Ku. Sadhna Shyamlal Sadafale (Sau. Sadhana Baburao Burde) ..vs.. Joint
Commissioner and Vice-Chairman, Scheduled Tribe Caste Scrutiny
Committee, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. R. Narnaware, Advocate for petitioner.
Ms. N. P. Mehta, A.G.P. for respondent no.1-State.

CORAM : B. P. DHARMADHIKARI AND
Z. A. HAQ, JJ.

DATED : JUNE 25, 2018

1. Caste claim of the petitioner as belonging to Halba-Scheduled Tribe has been invalidated. Submission of Mr. Narnaware, Advocate is Vigilance Cell's report was not served upon the petitioner and she was not given an opportunity to counter it. It is claimed that 11 documents submitted by the petitioner are not even looked into and as such the mandate of judgment in **Gayatrilaxmi Bapurao Nagpure .Vs. State of Maharashtra and others;** reported in **AIR 1996 SC 1338;** has been violated. He further submits that in any case, provisions of Rule 12 (8) of the Rules framed under 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 have been violated.

2. Learned A.G.P. pointed out that the petitioner did not cooperate with Scrutiny Committee and did not produce relevant documents. Only documents pertaining to self were produced. The Vigilance Cell could get a 1926 document in which, caste of her grandfather was recorded as *Koshti*. The petitioner received the Vigilance Cell's report and during hearing, accepted contents of the Vigilance Cell's report as correct. In view of this position, the Scrutiny Committee has invalidated caste claim of the petitioner.

3. The petitioner does not dispute entry of her grandfather Budhu Koshti taken in the year 1926 wherein his caste has been recorded as *Koshti*. In paragraph 10, the petitioner has insisted upon production of some receipt to show service of Vigilance Cell's report upon her. Specific observations in the order of Scrutiny Committee that attention of petitioner was invited to Vigilance Cell's report and she accepted that she has received it and also accepted that findings therein are admitted by her are not shown to be incorrect. Order of Scrutiny Committee shows that on relevant date i.e. on 07.04.2018, petitioner was present for hearing along with her husband.

If this mention in the impugned order is incorrect, it is very serious thing and petitioner ought to have taken a specific ground in that respect. That has not been done.

4. We also wanted to see the 11 documents of which reference has been made by the petitioner. However, our attention has not been invited to any such document.

5. Section 8 of the Act No.XXIII of 2001 puts burden upon the petitioner. Vigilance inquiry is only for the purpose of assisting the Scrutiny Committee. Its aim is not to assist the petitioner. The vigilance inquiry could get an entry of 1926, which petitioner did not point out. When attention of the petitioner was invited to that entry, she has not disowned or disproved it. In this situation, not mentioning expressly about 11 documents is not that relevant and by recognizing 1926 *Koshti* entry, the petitioner herself has acted to own detriment. Had the petitioner pointed out some old documents i.e. pre-Constitutional documents and then argued said point, Court could have effectively looked into the controversy. We find that the petitioner is interested in picking lacunae here and there.

6. At this stage, Mr. Narnaware, Advocate submits that Research Officer, who has carried out vigilance inquiry, did not hold necessary qualification as per Government Resolution dated 05.07.1998. In the light of the reasons recorded by us supra, this argument is not relevant.

7. Counsel for the petitioner seeks leave to raise contentions based on fact that the petitioner has been

recruited in Open category. No action to the prejudice of the petitioner has been taken after invalidation. If any such action is taken, we grant liberty to the petitioner to raise such a contention.

Writ petition is dismissed. No order as to costs.

JUDGE

JUDGE

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