

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

M.C.A. NO.490/2018 (REVIEW)
IN
WRIT PETITION NO.4051/2017 (D)

Astha Gopal Khakra
..Vs..
State of Maharashtra and another

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

Court's or Judge's orders

Shri J.B. Gandhi, Advocate for the petitioner.
Shri N.R. Patil, A.G.P. for the respondents.

CORAM : **B.P. DHARMADHIKARI & ARUN D. UPADHYE, JJ.**
DATED : 8.6.2018.

Heard.

Shri Gandhi has invited our attention to order dated 24th April, 2018 passed on this application at the stage of condonation of delay. According to him, had Scrutiny Committee informed petitioner about its observation on lack of material on record to establish residence / domicile within State of Maharashtra, petitioner could have produced the same. He submits that object of enacting Rule 17(11)(i) of Maharashtra Scheduled Castes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 is thereby defeated.

Shri Patil invites attention to notice served upon petitioner in Form-25. According to him, it contains necessary observations of the Committee.

Requirement of Rule 17(11)(i) and Form-25 are not in dispute. The Committee has to indicate its observations after perusal of documents and vigilance report. The notice served upon petitioner carries five observations but then none of them is touching domicile in State of Maharashtra. In impugned order of Committee there is comment upon absence of domicile.

Shri Patil has invited our attention to order passed in writ petition on 11th September, 2017. According to him, this Court has also looked into other aspects of the matter.

Order dated 11th September, 2017 rejecting writ petition in motion hearing shows failure to establish on record domicile as main reason. Along with it, this Court has also noted that documents mentioning caste as *Mistri Lohar* were also looked into by the Committee but that is not reason recorded by the Court. In paragraph No.4 it is the lack of domicile in Maharashtra which has resulted in rejection of writ petition.

Hence keeping all contentions open of Shri Patil, we recall order dated 11th September, 2017 and restore Writ Petition No.4051/2017 back to file.

Shri Patil waives notice in writ petition after its restoration.

Pending applications are also disposed of with liberty to petitioner - applicant to move appropriate

applications in writ petition.

JUDGE

JUDGE

Tambaskar.