

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.671 OF 2019

Sadhana W/o. Bhagwant Ghuge
(Sadhana D/o. Arun Mali)
Age : 29 years, Occu: Household,
R/o. Shripatpimpri, Tal. Barshi,
Dist. Solapur.

...PETITIONER

VERSUS

1. The State of Maharashtra
through the Secretary to Social Welfare
Department, Mantralaya, Mumbai-32
2. The District Caste Certificate
Verification Committee, Osmanabad,
Babasaheb Ambedkar Social Welfare Bhavan
Government Building, Osmanabad,
Dist. Osmanabad through its Member Secretary
3. The Collector,
Solapur, Dist. Solapur
4. The Tahesildar,
Tahesil Office, Barshi,
Dist. Solapur.

Mr. A.R.Devakate, Advocate for the petitioner
Mr. K.N. Lokhande, AGP for the respondent/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 17.01.2019

P.C. :-

1. Heard learned counsel for the petitioner.
2. The petitioner is before this court by way of present writ petition challenging the order dated 19.12.2018 passed by respondent No.2 the District Caste Certificate Verification Committee (hereinafter referred to as the Committee for sake of brevity). As the issue raised

in the petition, it can be dealt with and the grievance of the petitioner can be addressed to at the admission stage itself. The petition is taken up for disposal at the admission stage.

3. Facts are summarized, in brief which are necessary for considering the petition.

4. The petitioner is resident of village Shripatpimpri, Tal. Barshi, Dist. Solapur. As the petitioner was desirous of a participation in political filed contested her claim for the village panchayat elections. The petitioner was a need of the caste certificate alongwith the necessary documents such as a school leaving certificate, the proforma application, the certificate issued by the office of Sub Divisional Magistrate dated 01.11.2018 to show that in favour of the cousin of petitioner where submitted to the District Scrutiny Committee Osmanabad was scrutiny and validation. By order dated 19.12.2018 the respondent No.2 Member Secretary of the Committee informed respondent No.4 Tahesildar that on scrutiny of the proposal submitted by the petitioner for validation, it reveals that though the petitioner was an elected candidate from the post reserved for the reserved category candidate, the petitioner failed to submit the necessary documents in support of her claim before the Committee and the claim/ proposal is returned back for submitting the fresh proposal.

5. Learned counsel appearing for the petitioner submitted before us that the procedure adopted by the Committee under order dated 19.12.2018 thereby returned the proposal and further directing the Tahesildar to submit fresh proposal is not inconsonance with the Rules and there

is a complete go by to the Rules by the Committee. In support of his submissions the learned counsel invited our attention to the Rules. A specific reliance was placed on these provisions and more particularly Rule 17. Rule 17 carries the title procedure for Scrutiny Committee. Sub Rule 1 of the Rule 17 reads as thus

"On receipt of application, the Scrutiny Committee shall ensure that the application and the information supplied therewith is complete in all respects and carry out scrutiny of the application".

6. Sub Rule 3 of Rule 17 then reads as thus:-

"The Incomplete application may be rejected of recording the reasons."

7. Sub Rule 7 of Rule 17 then reads as thus:-

"If the Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 Rule 4 of the Code of Civil Procedure, 1908, all as other evidence and documents furnished along with any application or proposal, is of the opinion that the documents do not satisfy or conclusively proves the Scheduled Caste or Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Other Backward Classes or Special Backward Category claim, the Scrutiny Committee by mentioning the same in the roznama, shall refer such case to the Vigilance Cell for carrying out suitable inquiry, as is deemed fit, by the Scrutiny Committee. Provided that, findings recorded by the Vigilance Cell shall not be binding on the Scrutiny Committee as the Vigilance inquiry is meant for internal assistance to the Scrutiny Committee. The scrutiny Committee shall record its reasons for discarding the report of Vigilance Cell."

(Emphasis supplied)

8. The learned counsel submitted that the committee could have by recording the reasons rejected the application if the Committee was of the opinion that the

application is incomplete. But, the Committee failed to undertake this exercise as prescribed under the Rules and returned the proposal with direction of resubmission or fresh submission of the proposal at all. The further submission of the learned counsel that though not admitting but assuming that the material placed before the Committee by the petitioner was not sufficient enough to assess the claim the committee could have certainly proceeded further by applying Sub Rule 7 of the Rule 17 and in view of this particular provision, namely, Sub Rule 7 of the Rule 17 the course open for the Committee was to mention this reasons all the documents not satisfying or documents are not being conclusive proved referring the case to the Vigilance Cell for carrying out the suitable inquiry as deemed fit by the Scrutiny Committee.

9. The learned counsel for the petitioner then submitted that Sub Rule 7 further states that the Committee is vest with powers to discard report of Vigilance Cell by recording the reasons and the exercise of calling vigilance report is as stated in the Sub Rule 7 is for internal assistance to the Scrutiny Committee. The learned counsel on the backdrop of Sub Rule 7 of Rule 17 further submitted before us that nothing prevented the Committee to seek assistance of the Vigilance Cell report to verify and assess the claim of petitioner subjectively and objectively without permitting itself to exposing the adherence of the Rules. The Scrutiny Committee followed a procedure which is unknown to the Rules. As such the order of the Committee is clearly unsustainable.

10. Though the learned AGP made an attempt to support the order of the Committee considering the provisions of the Rules and by co-joint reading of Sub Rule 1,3 and 7 of

Rules 17, we find considerable merit in the submission of the learned counsel and we have no hesitation to state that the learned counsel for petitioner made out a case resultantly the petition is partly allowed.

11. The order impugned in the petition dated 19.12.2018 is quashed and set aside and respondent No.2 Committee is directed to take a decision on claim/ proposal of the petitioner by following the provisions and having an adherence to the Rules particularly Rules 17 and then to pass appropriate order, needless to state on merits, of the petitioner as expeditiously as possible and not later than 12 weeks from the date of this order.

12. Respondent No.4 Tahesildar is directed to send back proposal to the Committee as expeditiously as possible and not later than three weeks.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]