

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1780 OF 2019

1 Suyog s/o Jagatrao Bhadane
2 Sonali w/o Suyog Bhadane

Petitioners

Versus

1 Sangita d/o Ramsing Girase
2 Sanjay s/o Ramsing Girase
3 District Caste Certificate Verification
Committee, Nandurbar
4 The State of Maharashtra

Respondents

Mr.B.R.Waramaa, advocate for petitioners.
Mr.D.S.Bagul, advocate for Respondent No.1.
Mrs.R.P.Gour, A.G.P. for Respondents No.3 and 4.

**CORAM : PRASANNA B. VARALE &
NITIN W. SAMBRE, J.**
DATE : 13th March, 2019.

P.C. :

Impugned in this petition is order dated 28.09.2018, passed in favour of Respondent No.1 by Respondent No.3 – District Caste Certificate Verification Committee, Nandurbar, validating the claim of belonging to “*Rajput Bhamta*”, VJNT; so also the order dated 09.05.2005, passed by Respondent No.3 validating the similar claim in favour of Respondent No.2, who is brother of Respondent No.1, as belonging to “*Rajput Bhamta*”, VJNT.

2 The facts necessary for deciding the writ petition are as under:

Petitioners no.1 and 2 are the husband and wife and claim to be belonging to backward class. In the election of *Nagar Panchayat*, Sindkheda, names of both the petitioners appear in the voters' list. Respondent No.1 and petitioner no.2 claim to have contested the election to the post of Councilor from Ward No.12 against a seat reserved for OBC (Woman) category.

3 Since the members of Nomadic Tribe or Vimukta Jatis can contest the election for the post reserved for OBC, Respondent No.1 successfully contested the said election and got elected.

4 It is the case of the petitioners that Respondent No.1 has practiced fraud on the provisions of Constitution and also Statute dealing with grant of validity certificate. According to the petitioners, since Respondents No.1 and 2 have practiced fraud while securing validity certificate, their validity certificates are liable to be quashed and set aside.

5 Learned Counsel for the petitioners, Shri Waramaa, then would submits that the caste claims of both the respondents are false and the validity certificates were issued on the basis of tampered/incorrect entries. According to him, pursuant to the complaint dated July 22, 2018, the birth entry of Ramsing, father of Respondents No.1 and 2, was sent to handwriting expert for opinion. Without waiting for the handwriting expert's opinion, the Committee has proceeded to decide the claim hurriedly. According to him, the entry of caste in the school leaving certificate of Respondent No.1 is "*Hindu Rajput*", whereas, in the caste certificate, it is shown as "*Hindu Rajput Bhamta*". According to

him, in the school leaving certificate of Respondent No.2-Sanjay, the caste is shown to be recorded as “*Rajput*”. As such, the claim of Respondents No.1 and 2, according to him, ought to have been negated.

6 *Per contra*, learned A.G.P., appearing for Respondent State and Committee, supports the order.

7 Shri D.S.Bagul, learned Counsel appearing for private Respondents i.e. Respondents No.1 and 2, submits that the fact that the claim was decided without waiting for the opinion of the handwriting expert, though, is correct, however, same was pursuant to the directions issued by this Court while expediting hearing of caste claim of Respondent No.1. Shri Bagul then would urge that the entry, which is disputed by the petitioners is in the records of one Mr.Ramsing, father of Respondents No.1 and 2. According to him, even if said entry is appreciated with naked eyes, it can be noticed that the original entry is shown to be, “*Bhamta*” and the word “*Rajput*” is added below it. He submits that there is no tribe or caste by name “*Bhamta*” and the same has rightly been inferred in favour of Respondent No.1 by the Committee. He prays for dismissal of the petition claiming it to be politically motivated.

8 Having appreciated the submissions, this Court, vide order dated 03.07.2018 in Writ Petition No.7060 of 2018, has directed Respondent-Committee to decide the claim of the petitioner therein (Respondent No.1 in the instant petition) for verification of her caste certificate expeditiously and preferably within a period of three months.

9 Pursuant to the aforesaid directions, Respondent-Committee has taken out the proceedings for verification and appreciated the material produced by Respondent No.1 in support of the claim. The Vigilance Cell conducted inquiry in the matter, recorded statement of Respondent No.1 on 10.01.2018 along with statements of two respectable witnesses from the village. The Vigilance Cell report, in categorical terms, speak about caste of Ramsing in Form 14, as "*Rajput Bhamta*" and his date of birth as October 29, 1926. The said entry is of the period prior to 1961 and the Committee issued a communication to the Tahsildar, Nandurbar to verify the said entry. The Tahsildar, Nandurbar, has produced the Births & Deaths Register before the Committee on 12.06.2018. The Committee noted certain discrepancies in the figures "6, 9 and 10" in respect of entry as regards date of birth/death of Ramsing. The said discrepancies were sought to be relied upon by the petitioners so as to reject the claim of respondent no.1 before the Committee; and to substantiate the said contention, the petitioners have sought time before the Committee to produce appropriate evidence.

10 In pursuant to the objection raised by the petitioners, original record in regard to grant of validity certificates in favour of Akshay – nephew of Respondent No.1 and Sanjay – Respondent No.2, who are validity certificate holders, was summoned by the Committee. The said record was produced and the Committee proceeded to analyse the entire material available in the original records granting validity in favour of Respondent No.2 and nephew Akshay.

11 The Committee then proceeded to analyse the claim of the petitioners in the form of objection that there was a fraud practiced by the respondents in securing the caste certificate and recorded a finding that Respondent No.1 belongs to VJ category and validated her claim. While doing so, the Committee, in detail, considered the objections raised by the petitioners, so also alleged interpolation, as is claimed by the petitioners and recorded a finding in favour of Respondent No.1.

12 So far as the contention of petitioners as regards non production of opinion of handwriting expert is concerned, if the said submissions are evaluated in the backdrop of provisions of Section 4 of the Evidence Act, what is noticed is, the said opinion can be considered only for the purpose of corroboration and not as a primary piece of evidence. There has to be other material on record which prompts the authorities like the Committee to reach the conclusion that the alleged tampering is at the behest of Respondent No.1 so as to draw benefits available to the reserved category.

13 Apart from above, the petitioners, though sought time to produce on record the evidence so as to demolish claim of Respondents No.1 and 2 of belonging to reserved category, the petitioners have not discharged the burden to that effect.

14 The fact remains that the Committee has not decided the claim of Respondent No.1 in haste, as is claimed by the petitioners, particularly, having regard to the fact that this Court

has expedited decision of the Committee on the proposal for verification of caste claim of Respondent No.1, vide order dated 03.07.2018 in Writ Petition No.7060 of 2018, preferred by Respondent No.1. Respondent No.1, in our opinion was right in law in preferring such petition seeking expeditious disposal of proposal for verification, as non production of validity certificate would have tetterhook the petitioner with disqualification.

15 Apart from above, having regard to the law laid down by this Court in the matter of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Scrutiny Committee No.1 and others**, reported in 2010 (6) MhLJ 401, the Committee was right in considering and relying upon the validity certificates issued in favour of Respondent No.2 – real brother of Respondent No.1 and Akshay, nephew of both the Respondents. The petitioners have not questioned the validity certificate issued in favour of Akshay, nephew of respondents, but have questioned the validity certificate issued way back in 2005 in favour of Respondent No.2 only on the ground of alleged interpolation, which is duly gone into and examined by the Committee.

16 This Court, with the assistance of learned Counsel for the petitioners, has perused the alleged interpolation of word “*Rajput*” below the word “*Bhamta*” in the records of Ramsing and in our opinion, there is no material or even otherwise, the plain reading of the said document does not take this Court to the conclusion that there was tampering in respect of entry of caste in the records of Ramsing. Even otherwise, the petition, preferred by the petitioners, is with political motive.

17 That being so, no case for interference is made out.

18 In the result, petition fails and as such, stands
dismissed.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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