

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

1104 WRIT PETITION NO.8626 OF 2018

WITH
CA/10293/2018
IN
WP/8626/2018
WITH
CA/15108/2018
IN
WP/8626/2018

ASIYA BEGUM D/O MOHD KHAJAALIAS ASIYA
BEGUM W/O ABDUL HABIB

VERSUS

THE DISTRICT CASTE VERIFICATION
COMMITTEE NANDED AND ANOTHER

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Mr.S.S.Thombre h/f Mr. P.S.Agrawal,
Advocate for Petitioner.

Mr. P.S.Patil, AGP for R – 1 - State.

Mr. R.K.Ingole, Advocate for R – 2.

Mr. R.R.Mantri, Advocate for R – 3.

Mr. Ajit Kadethankar, Advocate for R – 4.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 25/01/2019

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ORAL ORDER:

. The petitioner assails the order dated 16/07/2018 passed by the Caste Scrutiny committee, Nanded thereby invalidating the caste claim of the petitioner as “Bagwan”.

2. We have heard Mr. Thombre, learned counsel for petitioner, learned A.G.P. for respondent No. 1, Mr. R.K.Ingole, learned counsel for respondent No. 2, Mr. R.R.Mantri, learned counsel for respondent No. 3 and Mr. Ajit Kadethankar, learned

counsel for respondent No. 4.

3. Initially, the District Caste Verification Committee, Latur issued validity certificate of caste “Bagwan” [OBC] in favour of the petitioner. Respondent No. 3 herein had filed Writ Petition No. 7900 of 2015 assailing the validity certificate issued in favour of the petitioner. This Court under order dated 08/06/2017 directed the Committee to consider the same.

4. This Court in para nos. 5 and 6 of the Judgment in Writ Petition No. 7900 of 2015 observed thus,

“ In the facts and circumstances of this case all that we clarify is that the petitioner's Advocate submits that the application/complaint at page 35 is traceable to sub-section (1) of section 7 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Act No. 23 of 2001) and invokes that power of the Scrutiny Committee. If that is so, the Scrutiny Committee, in this case, shall deal with this application/complaint in accordance with law. In the event, the Scrutiny Committee decides to probe it further, it should call upon respondent No. 4 to appear before it and it is only after compliance with the principles of natural justice, it should reach any conclusion.

We clarify that respondent No. 4 can raise all

contentions including the point of maintainability of proceedings and jurisdiction of the Scrutiny Committee. We dispose of this Writ Petition with the direction to the Scrutiny Committee to deal with the said complaint as expeditiously as possible and endeavour to dispose of the same within a period of four months from the date of receipt of the copy of this order. ”

5. It appears that pursuant to the aforesaid order of this Court, the complaint was filed by respondent No. 3 with the Scrutiny Committee at Nanded in December, 2017. The petitioner resisted and filed application raising the preliminary objection.

6. Learned counsel for petitioner has produced the record of the proceeding before us. From the record it transpires that the the Committee did not consider the preliminary objection raised by the petitioner and straight-way without coming to the conclusion of any fraud being committed by the petitioner, decided the objection of respondent No. 3 and invalidated the caste certificate inter-alia also set aside its earlier order granting validity to the petitioner.

7. The Committee was required to consider section 7 of the Maharashtra Schedule Castes, Schedule 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 (i.e. Maharashtra Act No. XXIII of 2001) [for short, “the Act, 2000”]. It should have come to the conclusion that there is suppression of fact and fraud having been committed by the petitioner and thereafter ought to have taken decision. The

Committee did not resort to the said exercise. However, dealt the same as if it was a regular validation proceeding filed for issuance of validity certificate. The Committee was required to consider that already the validity certificate is issued. It can re-open the proceeding unless it is a case of suppression or fraud. The Committee ought to have first taken a decision as to whether the Committee is satisfied of fraud, suppression of fact or such material necessitating the re-opening of the proceeding. Without arriving at said conclusion, it should not have straight-way re-opened the proceeding.

8. Considering the above, we quash and set aside the impugned order. The matter is remitted to the committee. The committee shall decide the objection of the petitioner and first decide whether the provisions of section 7 of the Act, 2000 are satisfied so as to enable it to re-open the proceeding. After passing such order, the Committee may proceed further in tune with the order passed on the preliminary objection of the petitioner and after arriving at the conclusion as narrated above. The parties shall appear before the Committee on 12/02/2019.

9. In view of the fact that the order of the Scrutiny Committee is set aside, necessary consequences shall follow.

[A.M.DHAVALA]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

KNP.