

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

WRIT PETITION NO.9330 OF 2018

Santosh Shivpratapsing Hajari,
Age 46 years, Occu: Service,
R/o. Ghatnandur, Tq.Ambajogai,
District Beed.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through Department of Social Welfare,
Mantralaya, Mumbai.
2. District Caste Certificate
Scrutiny Committee, Beed,
Dist. Beed through its
Member-Secretary.

.. RESPONDENTS

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Mr.G.K.Thigle [Naik], Advocate for the
Petitioner

Mr.K.N.Lokhande, AGP for the Respondent/State

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**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 19.12.2018
Pronounced on : 08.01.2019

ORDER: [Per S.S.Shinde, J.]:

1] This Petition is filed praying
therein to quash and set aside the impugned

order dated 31st May, 2018, passed by respondent no.2 Scrutiny Committee. It is further prayed to allow the application of the petitioner for validating caste certificate as belongs to 'Rajput Bhamta [V.J.]'.

2] Learned counsel appearing for the petitioner submits that, respondent no.2 cannot be justified in embarking upon the caste of the present petitioner without taking cognizance, and without attributing due consideration to the various documents submitted by the present petitioner in support of his caste as 'Rajput Bhamta'. The decision arrived at by respondent no.2 is thus without any legal justification as being vitiated by non-application of mind and unreasonableness. The impugned order of respondent no.2 is not legal, proper and sustainable, according to the provisions of law. The inference drawn by the respondent

authorities against the petitioner is without proper application of mind. In this view of the matter, the respondent authorities are not justified in passing the impugned order. The impugned order, thus, suffers from unreasonableness, arbitrariness and patent illegality. On this ground the impugned order deserves to be quashed and set aside in the interest of justice. The present respondent no.2 failed to appreciate that, none of the documents much less any of the register or school leaving certificate of the school refers any other caste than that of Rajput Bhamta.

3] It is further submitted that, the said order of the present respondent no.2 thus is abortive as not being founded on any of the materials or documents in this regard whatsoever. Moreover, the findings of respondent no.2 are contrary to the records. The impugned order of respondent no.2 is thus

not only unreasonable, but also arbitrary without considering the claim of the petitioner, and thereby denying the legitimate right of the present petitioner, which is against the settled legal principles of natural justice and fairness. The impugned order of respondent no.2, which is of a very vital nature as far as career of the present petitioner is concerned, and has far reaching consequences. The impugned decision has grave and wide implication of career, and further claims of present petitioner. Respondent no.2 is thus expected to arrive at such decisions with utmost scrutiny and care which in this case is neither evidence nor it can be implied. The exercise carried out by respondent no.2 is thus not only against law but are vitiated on account of non application, mis-appreciation and is contrary to the documents on record hence is unsustainable.

4] Learned counsel appearing for the petitioner invites our attention to the various documents placed on record, and submits that, when the tribe validation certificate was granted in favour of the nearest relative of the petitioner, namely, Sunil Laxman Hajari, there was no reason for the Committee to reject the claim of the petitioner.

5] On the other hand, learned AGP appearing for the respondent-State invites our attention to the findings recorded by the Committee, and submits that, the caste of the father of the petitioner is written as 'Hindu' in his record. It is submitted that, even in the school record of the petitioner, caste is written as 'Hindu', and contrary to the entry of the petitioner's father, sub caste Rajput Bhamta is written. It is submitted that, validity certificate granted

in favour of the distant relative of the petitioner, namely, Sunil Laxman Hajari, was prior to the judgment in the case of Kumari Madhuri Patil & another Vs. Additional Commissioner, Tribal Development & others¹. At the relevant time, when the validity certificate was issued in favour of said Sunil Laxman Hajari, there was no vigilance squad. It is only after the judgment in the case of Kumari Madhuri Patil [supra], the procedure is prescribed. The vigilance squad made enquiry, however, opined against the claim of the petitioner that, the petitioner belongs to 'Rajput Bhamta'.

6] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, and learned AGP appearing for the respondent-State. With their able assistance, we have perused the pleadings in the Petition, grounds taken

1 1994 [6] SCC 241

therein, annexures thereto, and also the impugned decision of respondent—Committee, and also the original record containing original documents, which were collected by the respondents, during the course of enquiry, pending decision before the Committee. Upon careful perusal of the school record of the petitioner's father in caste column 'Hindu' is written. It appears that, the various documents were collected during the course of vigilance enquiry, and it was noticed that, the petitioner's claim as 'Rajput Bhamta' cannot be accepted for having entries in the documents of the various persons from the community of the petitioner at some places, it is recording as 'Hindu' at some places only Rajput. There is no documents showing the pre-independence entry of 'Rajput Bhamta' in the documents submitted by the petitioner. It appears that, Sunil Laxman Hajari is distant relative of the

petitioner, and his caste claim had been validated, pursuant to the directions given by the High Court in Writ Petition No.3410/1980 [Sunil Lachmansing Hajari & Anr. Vs. State of Maharashtra & others], decided on 2nd April, 1982. At the relevant time there was no procedure prescribed to appoint vigilance squad. Pursuant to the judgment of the Supreme Court in the case of Kumari Madhuri Patil [supra], and thereafter, 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 and Rules thereunder, the procedure is prescribed. The provision of vigilance squad is made so as to practically find out about claim made by the candidate is genuine or otherwise. The said vigilance squad consists Research Officer and also

other Members, who are conversant with the necessary information for accepting or rejecting the caste/tribe claim of the candidates, who have applied for the validity.

7] We have carefully perused the findings recorded by the respondent – Committee, and the original record made available for perusal, and we find that, the findings recorded by the Committee are in consonance with the material brought on record during the course of enquiry. Importantly, the petitioner's father school record shows that, in the caste column 'Hindu' is mentioned. While exercising writ jurisdiction, the writ Court is not supposed to act as an Appellate Court, but endeavour should be find out, whether the findings recorded by the Committee are perverse or otherwise. Since we do not find the findings as perverse, we have no reason to interfere

in the impugned decision of the Committee.

Hence the Writ Petition stands rejected.

[K.K.SONAWANE]

JUDGE

[S.S.SHINDE]

JUDGE

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