

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1265 OF 2017

Smt. Raziya Ajamuddin Husen Tamboli ... Petitioner

Vs

The State of Maharashtra and Ors. ... Respondents

...

Mr. Saurabh Pakale i/by Mr. Shankar M. Katkar for the Petitioner.

Ms. K.N.Solunke, AGP for the Respondent Nos.1 and 2-State.

CORAM : B.P.DHARMADHIKARI &

SANDEEP K. SHINDE JJ.

DATE : AUGUST 29, 2019

P.C. :

Heard learned counsel for the petitioner and the learned
AGP for the State.

2. The Caste Scrutiny Committee declined to validate the petitioner's caste claim being 'Tamboli', which is 'Other Backward Class'. It appears that the Scrutiny Committee had issued notice under Rule 17(11)(i) of the 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 (in short '**Said Rules**') in Form No.25 and called upon the petitioner to prove his caste claim by discharging his burden as contemplated under Section 8 of the Act of 2001. It appears from the notice in Form No.25, that the Scrutiny Committee had not recorded the findings, for its being not satisfied about vigilance report. The notice is at Page No.35 of the petition.

3. In fact, instead of recording findings, the Committee in Form No.25 recorded its conclusion that there is no evidence in support of her claim to 'Tamboli' caste and, therefore, claim has not been proved. Thus, the notice in Form No.25 does not meet the requirements of law.

4. We have perused the Vigilance Cell report which states that the home inquiry revealed the traditional business of 'Tamboli' community is to trade in betel-nuts and there is evidence which

shows petitioner's cousin uncle is engaged in the business of selling betel-nuts. Besides this, the Vigilance Cell found that the family members of the petitioner are following the customs and traits of 'Tamboli' community. The report further indicates and reveals that the petitioner has produced death certificates of family members showing their caste as 'Tamboli' and same was verified and found it to be correct. The Vigilance Cell thus, submitted the report along with the statement of the persons from the 'Tamboli' community, of other persons and documents along with it.

5. Firstly, the Scrutiny Committee did not record the reasons as to why it did not agree with the report of the Vigilance Cell in Form No.25; and secondly, it did not refer to and/or appreciate evidence brought on record by the Vigilance Cell along with its report. If at all the Committee was not fully satisfied with the Vigilance report, it was always open to the committee to conduct the affinity test, but the same has not been conducted. Thus, the Committee summarily refused to validate the petitioner's caste claim.

Thus impugned order suffers from material irregularity as it has not followed the procedure contemplated under the said Rules which goes to the root of the matter.

6. For the reasons stated here-in-above, the order impugned is quashed and set aside. However, the Caste Scrutiny Committee is directed to verify the caste claim of the petitioner afresh but from the stage of issuing notice in form number 25 as required under Rules 17(11) of the Said Rules.

7. Petitioner is directed to appear before the Caste Scrutiny Committee on 7th October, 2019. The Caste Scrutiny Committee shall proceed to verify the cast claim of the petitioner and conclude proceedings preferably within eight weeks from the date of her appearance before the Caste Scrutiny Committee.

8. Till the conclusion of the proceedings before the Caste Scrutiny Committee, ad-interim relief granted by this Court on 6th

February, 2017 shall continue to operate and shall be subject to it.

9. Petition is partly allowed in the aforesaid terms and disposed of. No costs.

(SANDEEP K. SHINDE, J.)

(B.P.DHARMADHIKARI, J.)