

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3095 OF 2018

Samarthsing Ramsing Rajput

.... Petitioner

V/s.

State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai and Ors.

.... Respondents

Mr. P.D. Dalvi, with Mr. Balwant V. Salunkhe, h/f. Smt. S.S. Yadav, for the
Petitioner.

Mr. V.M. Mali, A.G.P., for the Respondent-State.

**CORAM : S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE : 5TH MARCH, 2019.

P.C. :

1. Heard Mr. Dalvi, learned counsel appearing on behalf of the
Petitioner, and Mr. Mali, learned A.G.P. appearing for Respondent Nos.1
to 3-State.

2. Perused the order of the Scrutiny Committee dated 12th January
2018, invalidating the claim of the Petitioner to be belonging to “Rajput
Bhamta”.

3. The Petitioner says that, “Rajput-Bhamta” is recognized as
“Vimukta Jati (A)” by the State of Maharashtra. The Petitioner was
desirous of availing of the benefits and concessions meant for the

members of this community and hence made an application for issuance of a Caste Certificate. On that application, the Caste Certificate was issued by the Competent Authority on 13th June 2012, a copy of which is annexed as 'Exhibit-B' to the Petition. Since the Petitioner was desirous of going for higher education, this Caste Certificate, together with related documents, were forwarded to the Director of Technical Education, who had allowed admission to the Petitioner in the 3rd Year of Mechanical Engineering Degree Course in the Academic Year 2017-18. He forwarded this Caste Certificate to the Competent Scrutiny Committee, because the Petitioner was admitted against the 'reserved seat'.

4. In paragraph Nos.6 and 7 of this Petition, it is stated as under :-

“6. The Petitioner states that, in so far as caste claim of the Petitioner is concerned, Respondent No.2-Committee did not satisfy about the documents produced by the Petitioner and handed over the case of the Petitioner to its Vigilance Cell for conducting Caste Certificate and home enquiry.

7. The Petitioner states that, thereafter, Police Inspector of Vigilance Cell conducted enquiry in the case of the Petitioner and at the time of enquiry, they recorded statements of the reputed persons from the local place of residence of the Petitioner, the said witnesses deposed that the Petitioner belongs to “Rajput Bhamta” caste and they also deposed that the Petitioner and his family carrying all the traits and traditions of the “Rajput Bhamta”. The Petitioner states that, after the Vigilance

enquiry, they submitted their report to Respondent No.2-Committee. It was submitted in the report that, from all the record, statements of the witnesses, the Petitioner belongs to Rajput Bhamta.”

5. On 12th May 2016, the Petitioner was called upon to give an explanation to the findings in the 'Vigilance Cell Report' and also state as to why this claim should not be invalidated.

6. In answer to this 'Show Cause Notice', the Petitioner stated that, his grand-mother had delivered a baby-boy on 9th April 1959. The Sangli Municipal Council has issued Birth Certificate, in which the caste is mentioned as “Rajput-Bhamta”. It is in these circumstances that the Petitioner claims that his case is genuine and that there is no question of any false assertions being made.

7. The Scrutiny Committee, however, was not satisfied with this explanation. The Scrutiny Committee, on an overall consideration of the materials placed before it, was of the opinion that the Petitioner's assertions are not worthy of acceptance.

8. It is this conclusion of the Scrutiny Committee, which is assailed before us. Mr. Dalvi, learned counsel appearing for the Petitioner, would submit that, it is common ground that ‘Rajput-Bhamta’ caste was a

nomenclature carved out as some members of the community earlier indulged and involved in criminal activities. Throughout, the assertion was that, such a nomenclature (Rajput-Bhamta) does not give a good impression to the people and that is why the 'Rajput-Bhamta' community members were avoiding inserting 'Bhamta' as against the name of the caste. Therefore, it should have been present to the mind of the Scrutiny Committee that, what is relevant is the word 'Rajput' and merely because the word 'Bhamta' does not appear in the Sangli Municipal Council's record pertaining to his grand-mother, that document could not have been discarded. Thus, the oral and documentary evidence clinches the claim of the Petitioner, according to Mr. Dalvi.

9. On the other hand, Mr. Mali, learned A.G.P., supported the findings in the impugned order and submitted that, they are based on as also consistent with the oral and documentary evidence placed on record. There is no perversity in the same and this Court cannot re-appreciate and re-appraise these findings. Hence, the Writ Petition be rejected.

10. Upon careful perusal of the material placed before the Scrutiny Committee, we do not think that the Scrutiny Committee has committed any error of law apparent on the face of the record. Its findings cannot be termed as perverse either.

11. The Petitioner produced as many as seven documents for supporting his claim. He, firstly, relied upon the 'Caste Certificate' issued to himself and the Scrutiny Committee rightly holds that, this cannot be the proof of the claim. Secondly, the Petitioner also relied upon the 'School Leaving Certificate' or the 'Extract' pertaining to himself, where the caste is mentioned as 'Hindu-Rajput'. Then, the Petitioner relied upon a document issued by Mohammadiya Anglo Urdu High School, Sangli. That was a document in favour of 'Rajput Ramsing Hirasing'. At Serial No.4, of the 'Chart of Proof', is the document on which Mr. Dalvi has placed heavy reliance. He would submit that, the paternal cousin grand-father of the Petitioner and his wife Ushatai Hirasing Kuvarsing Rajput gave birth to a baby-boy and the birth date is entered as '9th April 1959'. There, the column pertaining to 'caste' contains an entry 'Rajput'. Thus, this is the oldest document and has great probative value, according to Mr. Dalvi. He invited our attention to the additional affidavit filed in this case in support of the Petition.

12. After careful perusal of these materials, including the contents of the 'Vigilance Cell Report', the Scrutiny Committee holds that, as far as the document pertaining to Ushatai Hirasing Kuvarsing Rajput is concerned, firstly, the 'Birth and Death Register Extracts' maintained by the Sangli Municipal Council, particularly the page containing caste, i.e. 'Bhamta' or 'Rajput-Bhamta', is in torn condition. Such an old document

was, therefore, discarded and in our opinion rightly so. There was a comment made on the document itself. Then, as far as Satara Nagar Parishad Record in relation to 'Death' is concerned, it was claimed that Hirasing Kuvarsing Rajput is the grand-father of the Petitioner. It is claimed that, the Petitioner, while setting out the contents of the documents and particularly the 'Birth Extract' in relation to a baby-boy delivered by Ushatai Hirasing Kuvarsing Rajput is concerned, stated the relationship to be, firstly, the cousin grand-father and then, while producing the 'Death Extract', he has stated that Hirasing Kuvarsing Rajput is the grand-father. Then, what Scrutiny Committee finds is that, to avoid defamation as also general criticism, the word 'Bhamta' has not been used or employed by members of this community. That is contrary to the claim of the Petitioner before the Scrutiny Committee. Before the Scrutiny Committee, the documents were produced, which, according to the Petitioner, demonstrates that the entry made in the caste column and in the public record is 'Rajput' and 'Rajputs' are 'Rajput-Bhamta'. If the name of the caste is 'Rajput-Bhamta', then, the explanation that 'Bhamta' is a derogatory or defamatory term, is clearly an after-thought. That is not the stand taken, nor is consistent with the assertions of the Petitioner before the Scrutiny Committee. The Petitioner has relied upon the document of 9th April 1959 to urge that, his cousin grand-father Hirasing Kuvarsing Rajput and his wife Ushatai gave birth to a son and the entry in the caste column pertaining to them is 'Rajput-Bhamta'.

Hence, the above assertion contradicts these versions and, therefore, the reliance on these documents itself was enough for the Scrutiny Committee to reject such an argument.

13. Then it is stated that, there was a 'Caste Validity Certificate' issued to a distinct cousin, but on the paternal side. In relation to that, the Scrutiny Committee found that the relationship with this gentleman 'Mohansing Ramsing Rajput' has not been established. Hence, it would not be proper to rely upon this document.

14. We are of the firm opinion that, the credibility and evidentiary value of such documents, as were relied upon, has been heavily shaken on account of the discrepancies and errors noted by the Scrutiny Committee. In fact, throughout, the Petitioner has relied upon 'Birth Certificate No.1720' issued by the Sangli City Municipal Corporation, Sangli of Ramsing Hirasing Rajput and 'Birth Certificate No.45' issued by Sangli Nagar Parishad, Sangli of Dilipsing Hirasing Rajput. On the strength of these documents, he obtained the Caste Certificate.

15. We find that, on 5th January 1982, the Sangli Nagar Parishad may have given an 'Extract of the Birth Register' maintained by it, but there the word 'Bhamta' appears in the bracket and that does not tally with the primary document, namely, that of 9th April 1959. It is in these circumstances that the annexures to the Writ Petition clearly show that

the Petitioner could not have relied upon such doubtful and questionable entries.

16. Then the affidavit of Samarthsing Ramsing Rajput, namely, the Petitioner himself, filed before the Scrutiny Committee, purporting to place the genealogy and family tree, is also carefully perused by us. It is stated that, the common ancestor is 'Hirasing Kuvarsing Rajput' and that is the grand-father of the Petitioner. He had two sons Ramsing and Dilipsing. Petitioner is the son of Ramsing. However, this cannot be said to be the family tree. By just referring to the name of the Petitioner's father and that of one Dilipsing and claiming that both are sons of Hirasing, is thus neither a family tree or a geneology. In this family tree, what is missing is the name of the wife of Hirasing. Secondly, the other members of the family include a gentleman known as 'Mohansing'. He is stated to be 'Mohansing Ramsing Rajput'. This affidavit is not enough to prove the relationship with this 'Mohansing'. It is a finding of fact and, therefore, bearing in mind this family tree, that finding of fact can never be termed as perverse.

17. Thus, the Scrutiny Committee found that the claim of the Petitioner as belonging to 'Rajput-Bhamta (Vimukta Jati (A))' is not reliable and trustworthy. That assertion of the Petitioner cannot be accepted and he has hopelessly failed to discharge the burden placed on him by law.

18. Mr. Dalvi may rely upon an order passed by this Court at its Bench at Aurangabad in Writ Petition No.3010 of 2011 (Mayuri, D/o. Ashoksing Patil Vs. The State of Maharashtra and Anr.). That order passed on 20th February 2014 deals with a case where the Petitioner therein approached the Scrutiny Committee for validation of a Caste Certificate. She was relying upon the documents, which evidences that she belongs to 'Rajput Bhamta (Vimukta Jati)'. She specifically produced before the Scrutiny Committee the 'Caste Validity Certificate' in relation to her cousins. But the Scrutiny Committee opined that, those Caste Validity Certificates were not issued to the immediate relatives, but distinct ones and, therefore, they were discarded. The second ground on which the claim was rejected or invalidated is that, the Petitioner before this Court at its Aurangabad Bench could not state anything about the criminal background and record of the ancestors in the family. It is in these circumstances, that the documentary evidence was discarded.

19. This Court found the approach of the Scrutiny Committee to be rather strange, for it insisted that the Petitioner before this Court, who is barely 20 years old, could never authoritatively speak or state about the criminal record of the members of the 'Rajput-Bhamta (Vimukta Jati) or her ancestors. It may have been found that the members of this community were indulging in criminal activities, including theft, looting, dacoity and that is how the word 'Bhamta' got attached. But to expect

from a child born post-independence and that too in the 70s and 80s to be aware of such record was rather too much. Then, without giving an opportunity to the Petitioner to establish her relationship with the Caste Validity Certificate holders, her claim was rejected.

20. It is, therefore, in the peculiar facts and circumstances, that the claim was found to have not been properly dealt with. Hence, the order of the Scrutiny Committee impugned in that Petition was set aside and the matter was remitted back to the Scrutiny Committee. This is an order passed purely on the facts and circumstances of that case. These facts and circumstances being peculiar to Mayuri Ashoksing Patil, the Petitioner before the Aurangabad Bench, it is in these circumstances that we find that the reliance on this order is entirely misplaced.

21. As a result of the aforesaid discussion, we find no merit in this Writ Petition. It is, accordingly, dismissed. There would be no order as to costs.

22. The ad-interim order passed on 17th April 2018 is vacated forthwith.

[M.S.KARNIK, J.]

[S.C. DHARMADHIKARI, J.]