

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4521 OF 2016

Smt. Rekha Atul Jadhav
Age about 25 years, Occupation -
Household, residing at Post
Bharatgona, Tal. Daund,
Dist. Pune – 412 241.

.... Petitioner

- Versus-

1. The State of Maharashtra

2. The Divisional Caste Certificate
Scrutiny Committee No.3,
Pune, having its office at Jail Road,
Behind Commer Zone I.T. Part,
Ayerawada, Pune - 411 006.

3. The Collector, Pune.

4. Devidas Pandhirinath Temgire
Age about adult, Occupation -
Agriculture, residing at Post
Bharatgona, Tal. Daund,
Dist. Pune – 412 241.

.... Respondents

Mr. Gautam T. Kanchanpurkar for the Petitioner.
Ms M.P. Thakur, Assistant Government Pleader,
for Respondent Nos.1 to 3.

**CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

DATE : MARCH 28, 2019

ORAL ORDER (Per Shri S.C. DHARMADHIKARI, J.):

1. We have heard Mr. Kanchanpurkar, appearing for the petitioner. On the earlier occasion, in order to render complete justice, we called for the original records. Ms Thakur, learned AGP, has produced the original records for our perusal.

2. The two contentions which are raised by Mr. Kanchanpurkar are, firstly, that the petitioner is not highly educated and cannot be expected to produce materials with exactitude. She has produced the genealogy and family tree. She did not realise that inadvertently the genealogy and family tree of her husband's family was placed on record. She should have been allowed to place the correct genealogy, or in any event if the vigilance report had been perused, then, the Committee would have rendered a correct opinion, particularly about her cousin grandfather.

3. Secondly and alternatively, no injustice should be caused to her and she be allowed to produce even now the correct genealogy so that the finding of fact rendered against her can be demonstrated to be erroneous. Thus, the second and the alternate request is of remand to the Scrutiny Committee to pass a fresh order.

4. The Scrutiny Committee had before it a claim of the petitioner as belonging to “**Hindu Ramoshi**” caste.

5. The Committee found that such a claim was laid by the petitioner on account of a political office. That was an elected office of Sarpanch of Village Bharatgaon. A complaint was made that the petitioner does not belong to Hindu Ramoshi caste. That she has falsely and fraudulently grabbed the concession or the benefits meant for this caste. She could not have aspired for this political office, for the seat was reserved for a Nomadic Tribe.

6. The Committee came on the scene after the Caste

Certificate was referred to it for scrutiny and verification. The Caste Certificate was issued by the Competent Authority. The Competent Authority was aware that it was required to verify the genuineness of the claim of the petitioner as belonging to Ramoshi Vimukta Jati. This was a Notified Tribe vide Government Resolution dated 21-11-1961.

7. The Maharashtra State was formed on 1-5-1960 and it is only thereafter that the Government vide its Resolution notified that there are several Tribes and Nomads or those who are not settled permanently in a particular place but found wandering and not residing continuously at a certain place. They are being kept away from all the basic amenities and facilities, including education and political offices, though a scheme was devised so as to give them an opportunity to settle themselves in life. Having found that such an opportunity is available, several persons started claiming to be belonging to these Tribes. Some of them obtained admissions to educational institutions and particularly in reserved seats while some got employment (public employment) in reserved seats. Some of

them ran for political offices. This is one more instance of a person, like the petitioner, running for a political office and particularly after her marriage. She was born as Megha Tukaram Bhandalkar on 24-1-1989 at Village Ladkatwadi, Taluka Daund, District Pune. On 3-5-2009, she married one Atul Ankush Jadhav. From that day onwards she is known as Rekha Atul Jadhav.

8. The Committee found that amongst the other documents placed on record, was one certificate styled as a School Leaving Certificate. That was in relation to the petitioner's relative and stated to be from the paternal side, that is, Dnyanoba Tatyaba Bhandalkar. In relation to that, the Committee found that it is a forged document. The School Leaving Certificate refers to the General Register of the school and at serial No.727 of that Register there is an entry in relation to Dnyanoba Tatyaba Bhandalkar. While the School Leaving Certificate mentions his date of birth as 1-6-1950 and that he entered the school on 25-7-1960 and left this primary school on 24-12-1961, the General Register, at serial No.727 and against

the name of Dnyanoba Tatyaba Bhandalkar, shows the date of birth as 1-6-1970. In our opinion, therefore, rightly this document was discarded by the Committee and it was termed as false and bogus.

9. In relation to the other document and said to be very vital by Mr. Kanchanpurkar, the same is also a School Leaving Certificate. It is in relation to Baban Ragu Bhandalkar. Therein, his caste is mentioned as Hindu Ramoshi. He is stated to be born on 1-6-1948 and he entered the school on 27-9-1957. The School Leaving Certificate is issued by the Zilla Parishad Primary School, Pondhe, Taluka Purandhar, District Pune. However, in relation to Baban Ragu Bhandalkar, his School Leaving Certificate may have been produced but corroborative evidence has to be led and that is to show how the petitioner is related to this gentleman Baban Ragu Bhandalkar. The family tree and genealogy produced on record do not establish and prove the relationship of the petitioner with this gentleman. This is a finding of fact and Mr. Kanchanpurkar may term it to be perverse but we do not agree with him.

10. Mr. Kanchanpurkar says, as an explanation now before us, that inadvertently and by mistake the petitioner produced the genealogy and family tree of her husband's side rather from her paternal side. Mr. Kanchanpurkar admits that in this case the genealogy and family tree from the father's side ought to have been placed on record. He would submit that Baban Ragu Bhandalkar is a relation of the petitioner from the paternal side, particularly a cousin grandfather and we may now give him an opportunity to go back to the Committee and prove the relationship.

11. We are unable to agree with him and for more than one reason. One who indulges in falsehood can hardly invoke the writ jurisdiction of this Court and seek a discretionary and equitable relief. The relief under this jurisdiction, which is extraordinary, is granted only to promote justice. There is no compulsion on this Court to grant the relief and by ignoring the conduct of the parties. One who seeks justice must conduct himself in a just and fair manner before a Quasi Judicial

Authority. That is precisely not found in this case. By relying upon false and bogus documents and rather fabricated one, the petitioner has lost all sympathy and no equitable and discretionary relief can be granted to her.

12. Further, we do not think that it will be accurate to term every person as uneducated merely because he/she had no opportunity to attend a school. There is a difference between literacy and education. A person knows the difference between a relationship from the father's side and one is presumed to be aware of the same and when he/she appears before the Scrutiny Committee set up under a statute by the State Legislature that rests the burden on him/her to prove his/her claim. That caste comes from the father and therefore the relationship and the family tree from the father's side alone is relevant and crucial. In the circumstances, to now urge that another genealogy and family tree, on affidavit, should be allowed to be placed and the matter should be remanded, is a request deserving no consideration. We do not think that by granting any such liberty, the petitioner's case can be improved. The petitioner having laid

a claim and which was found to be false, she must be visited with all consequences. It is very clear that the complaint against the petitioner had substance and that is why this elaborate inquiry and scrutiny into the claim of the petitioner was held.

13. The reliance placed by Mr. Kanchanpurkar on two decisions of this Court is entirely misplaced.

14. In the first decision rendered in the case of **Chetan s/o Chandrashekhar Swami v. The State of Maharashtra & Others**, reported in 2013 (1) All M.R. 281, on facts this Court found that the petitioner had discharged the burden cast on him by law. The petitioner appeared before the Committee, submitted various documents in support of his claim. The petitioner, *inter alia*, placed on record the entry of caste in the service record of his father but the Committee discarded that entry by rendering a finding that the entry in relation to the caste in that record is based on the Caste Certificate. The Court found that the entry in the service record was made at the time of joining in service. The respondent No.2-Committee has not

considered the documents such as the Vigilance Cell Report and the materials collected by that Cell by terming all the documents to be of recent origin. However, there are two documents and which are referred in para 4 of the order of the Division Bench which could establish and prove that the petitioner belonged to “Malajangam” Scheduled Caste. Once the Court found, on facts, that the approach of the Scrutiny Committee was not sustainable in law, then, it made the observations on which heavy reliance is placed. These observations in paras 10 and 11 ought to be read in the backdrop of the factual position emerging from the record of that case. Hence, this decision is of no assistance to the petitioner.

15. The other decision reported in 2015 (5) Mh. L.J. 571 {**Horilal Shriram Jaiswar v. State of Maharashtra & others**}, again is rendered by a Division Bench of this Court in the backdrop of the Committee ignoring and brushing aside the documentary evidence and insisting on the petitioner producing a document to prove his father's residence in Mumbai prior to 1950. Firstly, the petitioner complained that the Committee or the Cell may

have insisted on production of such a record but he did not receive those letters in time. Secondly, he submitted the documents relating to his caste for the year 1950 or prior thereto. He also submitted the contemporaneous record of his father being in Mumbai. Once the documents were produced, then, discarding of the same was faulted with. We do not see how this Judgment and particularly the observations in paras 12 and 13 would support the case of the petitioner before us. Even this Judgment is distinguishable on facts.

16. As a result of the above discussion, the writ petition fails. It is dismissed. There would be no order as to costs.

17. The ad-interim order is vacated forthwith.

18. The original records be returned to Ms Thakur on production of certified true copy thereof.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)