

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6595 OF 2017***

Smt. Kamma Malkappa Sutar

... Petitioner

Vs

State of Maharashtra

Through its Secretary Social Justice &
Special Assistance Department, Mantralaya
Mumbai & Ors.

... Respondents

Mr. Priyal G. Sarda, Advocate for the Petitioner.

Mr. Y.S. Khochare, AGP for Respondents No. 1 to 4.

***CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE, JJ***
DATE : AUGUST 28th, 2019

P.C.:

1. Nobody appears for Respondent No. 5, though served prior to 16.08.2018. Petitioner has been elected as an OBC Reserved Category candidate, however, her claim as belonging to Panchal Community has been negated by the Committee.
2. This Court has, while issuing notice in the matter, granted interim relief on 20.06.2017.
3. The petitioner was served with a show cause notice and called

upon to explain objections about the domicile. This is recorded in ordersheet dated 01.07.2016. Petitioner thereafter on 30.07.2016 and 20.08.2016 took time to produce the documents. On 20.08.2016, she was given time till 16.09.2016.

4. The matter remained pending and was closed for orders on 13.01.2017. Ordersheet dated 13.01.2017 shows that the period of more than eight months had expired, after her election and no explanation/ reply was filed. The ordersheet reveals that her husband orally sought extension. Committee has recorded that since extensions were earlier allowed, request for extension could not have been entertained. It therefore closed the matter for orders.

5. This order refusing extension has been passed on an application dated 13.01.2017 moved by the advocate of the petitioner. Said application shows that petitioner has furnished family tree earlier and along with that application she was producing documents in support of her relationship with them and to substantiate their Caste. Request was therefore to accept the documents, accompanying such application on record. No order

appears to have been passed on this request. Order has passed by Committee, refuses time to file reply.

6. As Respondent No. 5 has chosen not to appear though served, with the assistance of the parties, we have perused objections filed by him before the Committee on 23.05.2016. In his objections, he does not anywhere point out other Caste of the petitioner or her father.

7. In this situation, as documents produced by the petitioner on 13.01.2017 have not been looked into and the petitioner has earlier relied upon the documents of family of her husband, we are inclined to give her one opportunity to demonstrate her true caste to the Caste Scrutiny Committee. It appears that she got married in April, 2016.

8. Papers also show that after receipt of show cause notice, from 01.07.2016 till 13.01.2017 i.e. for period of about six months, petitioner has not taken any effective steps before Committee. Hence, we are inclined to impose some costs upon her, for this attitude.

9. Accordingly, with the observations above, subject to petitioner paying amount of Rs. 20,000/- (Rupees Twenty Thousand) to the Respondent No. 2 - Committee within four weeks from today, we restore matter back to the file of Respondent No. 2.

10. Petitioner as also Respondent No. 5 shall appear before Respondent No. 2/ Committee on 11.11.2019. The Committee shall proceed further with verification of caste claim and look into documents produced on record on 13.01.2017 by the petitioner. Fresh orders on the Caste claim of the petitioner shall be passed within next three months.

11. If the cost amount is not deposited or the petitioner does not appear on given date and does not co-operate in expeditious disposal of Caste claim, Committee shall be free to pass suitable orders.

12. Interim orders passed by this Court on 20.06.2017 shall continue till period of four weeks and if cost amount is deposited with the Committee in the meanwhile, till further orders of the Committee in the matter.

13. Writ Petition is partly allowed and disposed of.

(SANDEEP K. SHINDE, J.) (B.P. DHARMADHIKARI, J.)