

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11776 OF 2019

Punam Dhulaji Tawari @ Punam
Namdeo Dolkar

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. R.K. Mendadkar for the petitioner.

Smt. S.S. Bhende, AGP for the State.

CORAM : B.P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.
DATE : NOVEMBER 20, 2019

P.C.:

Heard learned counsel for the petitioner and learned APP for the State. Perused the impugned order of the Scrutiny Committee dated 5/10/2019, Vigilance Cell report and reply of petitioner thereto. The vigilance Cell report expressly nowhere points out any tampering or interpolation in the school records. Only observation is in relation to one document. Though Head Master admitted that it is issued by the school, the entry of admission of that student was not seen at sr. no 325 in document Book no. 1. In that book at sr. no. 325 some other entry appears. In this backdrop the counsel for the petitioner has submitted that

the impugned order without affording appropriate opportunity to the petitioner records the finding of tampering in the school records and thereby invalidates the caste claim.

2. Learned AGP is relying upon the remark of the Research Officer at the end of the vigilance report to urge that there difference in ink has been noticed.

3. The vigilance report drawn by the vigilance cell after home enquiry, does not anywhere expressly mention any tampering or interpolation. The Research Officer has in his remark dated 27/09/2019 pointed out that there were erasers and some insertion in different ink in school records and this was pointed out by the Head master. After receipt of vigilance report, petitioner has submitted his reply thereto and in that reply, in paragraph 6, he has mentioned that the vigilance report has not reported any alteration or manipulation or fabrication or interpolation or forgery in the school record.

4. The provision in section 8 of 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 (Maharashtra Act No.XXIII of 2001) no doubt casts obligation upon the petitioner to prove his caste claim. In the

present matter, we find that the petitioner was not expressly called upon to discharge that burden. The finding about the interpolation etc appears to have been recorded at the time of passing of order by the Scrutiny Committee.

5. Learned counsel has submitted that the petitioner was not given any opportunity to meet this finding. It is specific case of the petitioner that the school leaving certificate in which caste of the father is recorded as Mahadev Koli as on 08/03/1949 is genuine and vigilance squad ought to have looked into the same.

6. As the petitioner has not produced the validity within mandatory period of 1 year, she has already been disqualified. We are therefore, willing to give her one opportunity to establish the caste claim. Only for the said purpose, we quash and set aside the order dated 5/10/2019 and restore the matter back to the file of respondent no. 2 Committee.

7. Petitioner shall appear before the Committee on 06/01/2020. She is given the opportunity in terms of section 8 to produce relevant evidence to substantiate the documents and caste claim.

8. The Committee shall attempt to complete the verification in accordance with law within next six months. Accordingly the petition is partly allowed the disposed of.

9. Needless to mention that other contentions on merit are kept open.

(SMT. SADHANA S. JADHAV, J.)

(B.P. DHARMADHIKARI, J.)