

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.917 OF 2017

Vaishali d/o Kesharlal Mahajan,
Age: 45 years, Occu. Sarpanch,
R/o Khandale, Post Mondhale,
Tq. Bhusawal, Dist. Jalgaon

Petitioner

versus

1. The State of Maharashtra,
Through Secretary,
Department of Social Justice,
Cultural Affairs, Special Assistance,
Mantralaya, Mumbai
2. The Divisional Caste Verification-
Scrutiny Committee,
For the Scheduled Caste (Vimukta Jati),
N.T. & O.B.C. & for Backward Class,
Committee No.2, Dhule, Tq. Dist. Dhule

3. The Collector, Jalgaon

Respondents.

Mr. J.M. Murkute advocate for petitioner

Mr. S.R. Yadav, Lonikar, Assistant Government Pleader for State.

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CORAM: Z.A. HAQ & S. M. GAVHANE, JJ

Date: MARCH 12th, 2020

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ORAL JUDGMENT

(Per: Z.A. Haq, J)

1 Rule. Rule made returnable forthwith.

2 The petitioner takes exception to the decision of the respondent No.2, Scrutiny Committee, by which the caste certificate of the petitioner is invalidated.

3 According to the petitioner, she belongs to Rajput Bhamta tribe which is recognized as Vimukta Jati in the State of

Maharashtra. According to the petitioner, her paternal cousin Lakshmikant Vasant Baviskar is given the caste validity certificate, upholding his claim that he belongs to Rajput Bhamta, which is recognized as Vimukta Jati in the State of Maharashtra, however, this relevant fact is not considered by the Scrutiny Committee and this resulted in erroneous decision.

4 The learned AGP submitted that the petitioner has failed to prove her relationship with Lakshmikant Vasant Baviskar. He further pointed out that the vigilance report is also silent about the relation of petitioner with said Lakshmikant Vasant Baviskar. The genealogical tree produced by the petitioner before this Court, which according to the petitioner was also produced before the Scrutiny Committee, shows that grand-father of the petitioner and the grand-father of Lakshmikant Vasant Baviskar were real brothers.

5 Learned advocate for the petitioner relied on the judgment given in the case of **Apoorva versus Divisional Caste Certificate Scrutiny Committee No.1 and others** {2011 (2) Bom CR 824} and submitted that as the caste claim of Lakshmikant Vasant Baviskar is validated by the scrutiny committee, directions be issued to the scrutiny committee to issue caste validity certificate in favour of the petitioner .

6 The preposition laid down in the Judgment given in the

case of **Apoorva** (supra) cannot be disputed and we are aware that it is followed in subsequent judgments. However, in the facts of the present case, especially considering that the petitioner has not been able to prove before the scrutiny committee the relationship with Lakshikant Vasantrao Baviskar, in our view, the interests of justice would be sub-served by passing the following order:-

ORDER

- (i) The impugned order is set aside.
 - (ii) The matter is remitted to the respondent No.2-Scrutiny Committee for fresh decision. Needless to say that the respondent No.2 Scrutiny Committee shall record finding on the claim made by the petitioner about her relationship with Lakshmikant Vasant Baviskar.
 - (iii) The petitioner shall appear before the respondent No.2-Scrutiny Committee on 20.4.2020.
 - (iv) The Scrutiny Committee shall take decision in the matter within six months.
- 7 Rule is made absolute in the above terms.
- 8 In the circumstances, the parties to bear their own costs.
- 9 Record & Proceedings be sent to the Scrutiny Committee immediately.

(**S. M. GAVHANE, J.)**

(**Z.A. HAQ, J.)**