

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4422 OF 2017

Mrs. Lalitabai Vijaykumar Dhopare	...Petitioner
vs.	
The State of Maharashtra and Ors.	...Respondents

**AND
INTERVENTION APPLICATION NO.1 OF 2019
AND
CIVIL APPLICATION NO.2094 OF 2019
IN
WRIT PETITION NO.4422 OF 2017**

Prasad B. Kulkarni for the Petitioner.
Priyal G. Sarda for the Applicant.
Mr. Mayur Jadhav i/b S. B. Shetye for Respondent No.3.
Ms. K. N. Solunke, AGP for Respondent Nos.1 and 2.

**CORAM : B. P. DHARMADHIKARI &
N. R. BORKAR, JJ.
DATE : 21/02/2020.**

PC.:

. Order of Scrutiny Committee invalidating caste claim of the petitioner as “Koshti (SBC)” dated 2/3/2017 has been questioned before this Court.

2. We find that on 13/7/2016 notice as mandated by Rule 17(11) (1) of the Maharashtra Scheduled Castes, Schedules Tribes, De-Notified (Vimukta Jati), Nomadic Tribes, Other Backward Class and Special Backward Class (Regulation of Issuance of Caste Certificate) Rules, 2012 was served upon the petitioner. In that notice the Scrutiny Committee has assigned only three reasons for not accepting the vigilance report. One is the school leaving certificate mentioning caste as “lingayat”. Second one is the school records of father Shivlingappa could not be

verified and entry was not seen in school register. The vigilance authority found document false. Third reason is no records were produced to show caste recorded as “Koshti” prior to 1967 or residence before 1967 in the State of Maharashtra.

3. Perusal of order of scrutiny committee shows reference to the oldest document i.e. entry of date of birth dated 21/2/1922. The entry is in the office of Tahsildar, Akkalkot. Vigilance Authorities mentioned that when they tried to verify the register, it was in torn condition and pages were disintegrated. Tahsildar, Akkalkot in writing informed that the entry was not found.

4. There is one more document which is issued by the Co-operative Society of Waghdari which mentions that Shivlingappa was residing at Waghdari and weaving saris on hand-loom between 1940-1965. After the hand-loom business suffered a set back, in 1970 he went to Aland. It mentions his religion to be “Hindu” and his caste as “Koshti” It is not in dispute that this place Aland is in the State of Karnataka. According to respondents the petitioner is not native of Maharashtra and therefore even if he is presumed to be “Koshti” in the light of law as laid down in various judgments including Full Bench Judgment in the case of ***Shweta Santalal Lal vs. State of Maharashtra and Ors.:2010(2) Mh. L.J. 904*** the petitioner cannot seek the benefit of reservation. The other contention is there are no genuine documents to substantiate the caste claim.

5. This Court has on 5/7/2017 taken note of document at Exhibit “F” which cannot be verified by Vigilance Cell. It found that the petitioner has produced before Scrutiny Committee certified copy of birth extract which was issued on 14/9/1987. This Court therefore directed respondent/ State and the Committee to verify whether any such certified copy was issued to the petitioner at that time. This exercise has not been undertaken

till date.

6. The Scrutiny Committee has disbelieved the certificate issued by the above mentioned co-operative society on the ground that it does not inspire confidence. Why it does not inspire confidence is not apparent. Though Respondent No.1/Committee has filed affidavit before this Court, but it has not explained why it found that certificate doubtful.

7. In this situation, as the matter is pending before this Court since last about 3 years and the petitioner has been elected for a term of 5 years we find that the interest of justice can be met with by remitting the matter back to the Scrutiny Committee for fresh consideration.

8. Rule 17(11) of said Rules requires the Scrutiny Committee to issue notice in Form 25 to the petitioner giving its reasons for not agreeing with the finding of Vigilance Cell. The doubt about certificate of Co-operative Society expressed in the impugned order has not been pointed out to the petitioner in said show cause notice.

9. We therefore quash and set aside the order dated 1/3/2017, We direct the petitioner to appear before the Respondent No.2/ Committee on 23/3/2020. The Committee shall proceed further in accordance with above mentioned Rule and complete verification, after extending the necessary opportunity to the petitioner, within next 8 weeks.

10. The petition is partly allowed and disposed of. No costs. Pending applications are also disposed of.

(N. R. BORKAR, J.)

(B. P. DHARMADHIKARI, J.)