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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 1322 OF 2020

Sou. Surekha Mahesh Chavan, Adult)
Occu. - Social Service, Residing at -)
Shiroli Pulachi, Taluka Hatkalangale,)
District Kolhapur ... **Petitioner**

Vs.

1. District Caste Scrutiny Committee,)
Kolhapur, Dr. Babasaheb Ambedkar)
Bhavan, 2nd Floor, Vichare Mal.)
District Kolhapur)
2. The District Collector, Kolhapur)
Svaraj Bhavan, Nagalpark,)
District Kolhapur)
3. Arif Mahamad Sarjekhan, Age adult)
Occu. - Agriculturist, Residing at -)
Shiroli Pulachi, Taluka Hatkalangale,)
District Kolhapur ... **Respondents**

Mr. A. V. Anturkar, Sr. Advocate i/b Tanaji Mhatugade, for the
Petitioner.

Ms. Kavita N. Solunke, AGP for the Respondent – State.

Mr. Drupad Patil, for the Respondent No. 3.

**CORAM : S. J. KATHAWALLA &
VINAY JOSHI, JJ.**

**RESERVED FOR JUDGMENT ON : MARCH 2, 2021
JUDGMENT PRONOUNCED ON : MARCH 10, 2021**

JUDGMENT [PER : VINAY JOSHI, J.]

1. Rule. Rule made returnable forthwith. The Advocate's Application for the Respondents on institution waives notice of rule. Heard finally by consent of both the parties.

2. The Petitioner has approached this Court on being aggrieved by the Order dated 23.1.2020 thereby rejecting the claim of the Petitioner of belonging to the Hindu (Nhavi) caste, which is recognized as Other Backward Class ("OBC") at Sr. No. 108 under a Government Resolution dated 13.10.1967 in the State of Maharashtra.

3. The lady Petitioner, whose maiden name was Surekha Vasant Mane, has contested the election of Gram Panchayat for the village-Shiroli Pulachi, taluka-Hatkalangale, district-Kolhapur, from the reserved seat for the OBC category. The Petitioner was elected and became a member of the Gram Panchayat of the said village. The Petitioner claims to be belonging to the Hindu (Nhavi) caste, on the basis of the caste certificate issued by the Sub-Divisional Officer, Ichalkaranji, dated 23.12.2016. The Petitioner had applied to the Caste Scrutiny Committee for the verification of her caste claim and for the

issuance of validity certificate. The Petitioner had supplied various documents in support of her claim to the Caste Scrutiny Committee. The Caste Scrutiny Committee entrusted the matter to the Vigilance Cell for conducting a local inquiry. The Respondent No. 3 had objected to the Petitioner's claim before the Scrutiny Committee by way of tendering certain documents. On evaluation of the Petitioner's caste claim, the Scrutiny Committee vide its Order dated 29.6.2018 rejected the Petitioner's claim for issuing a validity certificate. Being aggrieved by the said decision, the Petitioner has filed Writ Petition No. 7646 of 2018 before this Court. Vide its Order dated 1.10.2019, this Court quashed and set aside the Order of the Scrutiny Committee dated 29.6.2018 and remitted the matter back to the Scrutiny Committee for fresh consideration. Concerning the same, the Petitioner had tendered some additional documents along with an extended genealogy to the Committee in support of her claim. On fresh assessment, once again the Petitioner's caste claim came to be rejected by the Committee vide its impugned Order dated 23.1.2020.

4. At the inception, the learned counsel for the Petitioner

drew our attention to paragraphs 9 and 10 of the earlier Order of this Court dated 1.10.2019. It is stated that in an earlier round of litigation, this Court had expressed that the Committee has ignored the mention of the word “Nhavi” in the revenue document of Amruta. According to the Petitioner, the revenue extract (page 23 of the Petition) of Amruta Sitaram Mane (alleged real brother of Petitioner’s grand father) bears mention of the Nhavi caste, which ought to have been considered by the Committee. Moreover, it is argued that the School Leaving Certificate of the Petitioner’s brother Dipak bears reference of the Nhavi caste, as well as there is an entry of the Nhavi caste in the School Leaving Certificate of the Petitioner’s cousin sister Sumitra. It is submitted that all these vital documents have been ignored by the Committee while assessing the Petitioner’s claim. Further, the learned counsel for the Petitioner submitted that in the first round of litigation the Committee had accepted (paragraph 8, page 52 of the Petition) the Petitioner’s relationship with her grand father’s real brother (cousin grand-father) Amruta, but in the next round, the Committee held that the relationship has not been established.

5. The learned counsel for Respondent No. 3 emphatically

resisted the Petitioner's claim by supporting the impugned Order dated 23.1.2020. He submitted that neither Amruta, nor Dipak, nor Sumitra are related to the Petitioner. It is argued that the Petitioner was born in Karnataka State and her father was also a permanent resident of Karnataka who lived there till his death. Prior to the deemed date of 13.10.1967, the Petitioner's family was very much living in Karnataka State and, therefore, she is not entitled to the benefits.

6. With the assistance of both the learned counsel, we have gone through the impugned Order, documents tendered by both sides as well as the original record. The Petitioner has submitted her School Leaving Certificate issued by the Principal B. S. Composite Pre-University College Bedkihal, district Belgaon, State of Karnataka, which shows that at the time of her admission, her caste was shown as Hindu Maratha. The Petitioner has submitted the School Leaving Certificate of one Sumitra (alleged cousin sister) of the village-Rangoli, taluka- Hatkalangale, district-Kolhapur. However, there are no supporting documents to establish the Petitioner's relationship with Sumitra. Also, the Petitioner has not produced any other documents to

show that she or her forefathers were residents of the village-Rangoli. On the contrary, the contesting Respondent has produced several documents to disprove the Petitioner's claim regarding their residence at village Rangoli.

7. The Petitioner had initially tendered a genealogical tree on Affidavit dated 16.9.2017, showing the name of her grand-father as Laxman Bhagoji Mane. It is worthwhile noting that in the second genealogy, the Petitioner has shown the name of her grand-father as Laxman Sitaram Mane. There is no explanation as to how the name of Laxman's father has been changed from Bhagoji to Sitaram. Moreover, it is not the case of the Petitioner that Bhagoji was also known as Sitaram nor were such documents tendered. In an extended genealogy, a new branch of Amruta, in the capacity of being the brother of Laxman, has been added. Moreover, in the said genealogy, the Petitioner has shown that she had a brother Dipak, which was not shown in her earlier genealogy. In order to satisfy the Petitioner's relation with either Amruta or Dipak, no revenue documents have been furnished.

8. The Petitioner has heavily relied on the old revenue extract of Amruta Sitaram Mane wherein his caste was mentioned as Nhavi. The Petitioner claims that said Amruta, resident of taluka-Mangalwedha, district-Solapur was the real brother of her grand-father Laxman. However, as per the first genealogy tendered on Affidavit, Laxman's father's name was merely shown as Bhagoji and not Sitaram. The contesting Respondent has pointed to the death extract of the Petitioner's father Vasant wherein his father's full name has been mentioned as Laxman Bhagoji Mane (not as Laxman Sitaram Mane). Therefore, the Petitioner utterly fails to establish her relationship with Amruta. Hence, the said revenue extract cannot be relied upon. Moreover, there are no documents to establish a connection of the Petitioner's family with taluka-Mangalwedha, district-Solapur from where said Amruta hails.

9. The contesting Respondent has produced a certificate issued by the Rangoli Gram Panchayat, taluka-Hatkalangale, to the effect that the Petitioner's father Vasant was not a resident of the said village. Moreover, the Death Certificate of Vasant shows that he died

at village-Bedkihal, taluka-Chikodi, district-Belgaon. Besides that, the contesting Respondent has produced a voters' list of Nipani constituency, Karnataka State, wherein the name of the Petitioner's brother was shown as Ramesh and not Dipak. The said material clearly postulates that since the very beginning, the Petitioner's family was residing permanently in Karnataka State. In other words, the Petitioner failed to establish that her forefathers were residents of Maharashtra State prior to the deemed date i.e. 13.10.1967. The Respondent has drawn our attention to the Government Notification dated 31.8.2012. Clause (3) of the Notification says that the competent authority can issue a caste certificate to a person, who is a permanent resident of the concerned area on the deemed date. In case the claimant is born after due date, then the permanent residence of his forefathers on the deemed date requires consideration. Therefore, undoubtedly, the Petitioner whose family was not residing in the State of Maharashtra on the deemed date, cannot derive any benefits from the State of Maharashtra.

10. Although the Petitioner has produced a caste validity

certificate of one Kiran Shankar Mane, his relationship with the Petitioner has not been established. The Scrutiny Committee in the earlier round of litigation has not accepted the Petitioner's relationship with Amruta (referred supra) but it was a mere reference to the facts that were pleaded.

11. The learned counsel for the Petitioner has relied on certain documents from the Petitioner's maternal side. In this regard, he placed reliance on the decision of this Court (Nagpur Bench) in the case of *Anchal d/o Bharat Badwaik Vs. The District Caste Scrutiny Committee & Ors.* dated 8th April, 2019 in the Writ Petition No. 4905 of 2018. However, in the absence of credible documents the said decision would not apply to the facts of this case. Moreover, the learned counsel for the Petitioner relied on the decision of this Court in the case of *Sagar Malage Vs. Member/Chairman, Divisional Caste Scrutiny Commi No. 2, Kolhapur & Ors. [2019 (3) Mh.L.J. 319]* to contend that the part of Karnataka from where the Petitioner originally belongs, was a part of the erstwhile State of Bombay. The said ratio would not apply in the absence of supporting material and particularly

in view of the deemed date for the OBC caste i.e. 13.10.1967.

12. Having an overall view of the matter, we are of the considered opinion that the Scrutiny Committee has properly evaluated all the documents while rejecting the Petitioner's claim. Certainly, the Committee is duty bound to reject the false claim, and also to safeguard the claims of genuine persons. In substance, the Petitioner has failed to establish her caste claim and therefore, the impugned Order calls no interference. The Writ Petition is dismissed and Rule is discharged.

[VINAY JOSHI, J.]

[S. J. KATHAWALLA, J.]