

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3657 OF 2020

Manish S/o. Narendra Khairnar. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mrs.Laxmi R. Thakur for the Petitioner.
Mrs.P.N.Diwan, AGP for the State.
Mr.Aadesh J. Sawant for Respondent No.4.

CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.

DATE : 23 March 2021.

P.C. :

The Petitioner has filed this petition challenging the order passed by Respondent No.2- Schedule Tribe Certificate Scrutiny Committee, Nashik dated 26 November 2020 invalidating the caste certificate of the Petitioner and for further direction to Respondent Nos.3 and 4, the Director of Medical Education and the Commissioner, State CET Cell of Maharashtra to consider the Petitioner in the Scheduled Tribe category for admission to Bachelor in Pharmacy course.

2. On 3 September 2019, the caste certificate of the Petitioner was sent for verification by the Head of the School where the Petitioner was studying. The Petitioner was given a caste certificate by the Sub-Divisional Officer, Malegaon, on 30 August 2016 as belonging to Mahadeo Koli Scheduled Tribe. A vigilance enquiry was conducted. The Petitioner also submitted documents on record. The Petitioner relied upon the validity certificate issued to the Petitioner's uncle on 26 October 2004 and to the Petitioner's father on 3 January 2006 by the very same Scrutiny Committee, Nashik. The Scrutiny Committee, after considering the evidence, observed that entries in respect of Petitioner's relatives prior to 1950 are Hindu Koli, and subsequent entries post-1950 are either Hindu Mahadev Koli or Hindu M. Koli. Considering this evidence, the Scrutiny Committee concluded that the Petitioner's caste certificate was liable to be invalidated. Regarding the validity certificate issued to the Petitioner's uncle and Petitioner's father, the Committee observed that the validity certificates were obtained by suppressing facts. Accordingly, by the impugned order dated 28 November 2020, the caste certificate issued to the Petitioner on 30 August 2016 was invalidated. The Petitioner moved this writ petition in December 2020 since the Petitioner was desirous of taking admission in the B-Pharm course. The petition was adjourned, and on 14 January 2021, the Respondents were directed to consider the Petitioner in the Scheduled Tribe category for the B-Pharm course on merit. The admission was made subject to the result of the

petition. The petition was directed to be disposed of finally at the admission stage.

3. We have heard the learned counsel for the parties.

4. Before the Scrutiny Committee, the Petitioner had relied upon the validity certificate issued to the Petitioner's father-Narendra Dattatraya Khairnar. We have gone through the impugned order, and we find that the manner in which the Scrutiny Committee has discarded the validity certificate issued to the Petitioner's father is highly unsatisfactory. The validity certificate was issued to the Petitioner's father by the very same Scrutiny Committee. The validity certificate was issued on 3 January 2006 after coming into force of the 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. The Scrutiny Committee does not state that no vigilance cell enquiry was carried out when the Petitioner's father was issued a validity certificate. There is nothing on record to indicate as to the document of 1948, which is now held against the Petitioner's father's claim, which was not part of the vigilance cell enquiry when the Petitioner's father was given a validity certificate. If it was before the Scrutiny Committee, it could not be said that the Petitioner's father had intentionally suppressed the document. The observation

that the Petitioner's father suppressed the document of 1948 is most casually made. There is no analysis of the vigilance cell enquiry conducted when the Petitioner's father was granted a validity certificate, and such records were not produced by the Vigilance Cell. It is not the case that the Petitioner's father was given a validity certificate without any enquiry whatsoever. Therefore, if the Petitioner's father's validity certificate is to be discarded, more depth scrutiny is required. Merely because it is possible to distinguish the validity certificate, if it is erroneously issued, the valid certificate issued by the very same Scrutiny Committee in respect of the Petitioner's father cannot be discarded casually. If such an approach is permitted, there will be no certainty in respect of the caste claims. The same position applies to the validity certificate regarding Petitioner's cousin/uncle- Samadhan Babulal Khairnar. Therefore, the impugned order will have to be quashed and set aside, and the case needs to be remanded to the Scrutiny Committee to consider the implications of the validity certificates issued to the Petitioner's cousin/uncle on 26 October 2004 and Petitioner's father on 3 January 2006 in the light of what is observed above. The Petitioner is granted provisional admission by interim order, which will have to be continued till the disposal of the case upon remand by the Scrutiny Committee.

5. Accordingly, the impugned order dated 26 November 2020 is quashed and set aside. The case of the Petitioner stands

restored to the file of the Respondent- Scrutiny Committee, Nashik. The Petitioner's claim be decided in the light of what is observed above within six months from today. The provisional admission granted to the Petitioner pursuant to the interim order dated 14 January 2021 will be subject to the outcome of the proceeding before the Scrutiny Committee. The Scrutiny Committee will communicate the result of the proceeding to the educational institute where the Petitioner is currently taking education. If the outcome/ decision by the Scrutiny Committee is adverse to the Petitioner, the same shall not be given effect for four weeks from the communication of decision/order on the Petitioner.

6. Writ petition is accordingly disposed of above terms.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)