

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

WRIT PETITION NO. 2755 OF 2020

Hemlata Kishorsingh Chouhan	... Petitioner
<i>Versus</i>	
State of Maharashtra and Ors.	... Respondents

Mr. C.K. Bhangoji a/w Tanaji Jadhav, for the Petitioner.
Mr. N.K. Rajpurohit, AGP for State-Respondent Nos. 1 to 3.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 16th NOVEMBER, 2021.

P.C. :-

1. Mr. Bhangoji, learned counsel for the petitioner, seeks liberty to delete Respondent No. 4 from the cause title of the Petition. Leave to amend is granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule.

3. Mr. Rajpurohit, learned AGP waives service for the respondents.

4. By consent of the parties this petition is heard finally.

5. By this petition filed under Article 226 of the Constitution

of India, the Petitioner has impugned the order dated 5th November, passed by respondent no. 2, Scrutiny Committee to issue certificate of validity in respect of caste certificate dated 24th March 2008 issued by Sub Divisional Officer, Bhiwandi in favour of the Petitioner.

6. The short grievance of the petitioner in this petition is that though the committee of the respondent no. 2 was comprising of three members, the hearing was conducted only by two of the members. In support of this submission, learned counsel for the petitioner invited our attention on the roznama dated 7th October 2019 annexed at Exhibit J to the Petition. He submits that the proceedings were to be conducted by three members. In support of this submission he relied upon the judgment delivered by this Court on 15th February 2021 in case of **Karan M. Bahure Vs. State of Maharashtra and Others** in Writ Petition No. 3616 of 2020. He submits that in the identical facts, this Court has quashed and set aside the order passed by respondent no.2 and remanded the matter back to the committee for deciding the issue in accordance with law.

7. Mr. Rajpurohit, learned AGP for respondent Nos. 1 to 3 does not dispute that the proceedings were to be conducted by all the three members and not by two members as sought to be canvassed by the petitioner.

8. Learned AGP, did not dispute that the last roznama on record was signed by two members of the scrutiny committee and not by three members. It is thus clear that when the matter was closed for orders, only two members of the scrutiny committee were present.

9. This Court, in the judgment in case of **Karan M. Bahure Vs. State of Maharashtra and Ors.** has considered the identical facts by referring to the judgment in case of Vijay Kisan Karanjkar Vs. State of Maharashtra and Ors. 2003(4) ALL MR 691 and has held that three members were required to render hearing to the applicant before it and not by less than three members. The said provision is mandatory and not directory.

10. In our view, in the last roznama produced on record clearly indicates that only two members of the scrutiny committee were present out of three members. The entire proceedings culminating into the impugned order is thus vitiated being contrary to the said Rule. The principles laid down in case of Vijay Kisan Karanjkar (supra) and Karan M. Bahure (supra) are applicable to the facts of this case.

11. We accordingly pass the following order.

- (i) The impugned order dated 5th November 2019 passed by the respondent no. 2-Scrutiny Committee is quashed and set aside. The

Respondent No. 2-Committee shall grant personal hearing to the petitioner and shall give an opportunity to the petitioner to produce additional documents if any and shall pass a fresh order in accordance with law without being influenced with the observations made and conclusion drawn in the impugned order, expeditiously and not later than four months from the date of communication of this order.

- (ii) The petitioner shall not seek any unnecessary adjournment and shall remain present on the date of hearing before respondent no. 2.
- (iii) The order that would be passed by respondent no. 2 shall be communicated to the Petitioner within one week from the date of passing of the order.
- (iv) If the order that would be passed is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.
- (v) The Respondents or Annasaheb Dange College of Engineering, Sangli shall not take coercive steps against the Petitioner in the event of any adverse order passed against the petitioner for a period of four weeks from the date of communication of such order.
- (vi) If the order that would be passed is in favour of

the petitioner, the respondent no. 2-Committee, shall issue a caste certificate in favour of the petitioner within two weeks from the date of passing of such order.

- (vii) Rule is made absolute in aforesaid terms. There shall be no order as to costs.
- (viii) The parties to act an authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D.DHANUKA, J.]