

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3034 OF 2021

Tazim Karim Madre ... Petitioner.

V/s.

State of Maharashtra & Others ... Respondents.

Mr. C.K. Bhangoji, for the Petitioner.

Mr. N.K. Rajpurohit, AGP, for the Respondents-State.

**CORAM : NITIN JAMDAR AND
AMIT B. BORKAR, JJ.**

**DATE : 6 JANUARY 2022.
(Through Video Conferencing)**

P.C. :

The writ jurisdiction of this Court under Article 226 of the Constitution of India is invoked against the order dated 9 August 2019 passed by the Caste Scrutiny Committee, Ratnagiri by which the Petitioner's claim as belonging to the "Darji Caste" came to be rejected.

2. The Petitioner is a student in whose favour a caste certificate was granted by the Deputy Collector, Ratnagiri certifying that he belongs to the "Darji Caste", which is notified as Other Backward Class in the State of Maharashtra on 31 May 2012. On the basis of

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said certificate, the Petitioner was granted admission in Respondent No. 4 – college under category ‘Reserved for OBC’ candidate for Academic Year 2015-2016. The Petitioner completed his degree course in the year 2019. However, the Respondent No. 4 has not released degree certificate and other documents submitted by the Petitioner at the time of his admission.

3. The claim of the Petitioner was referred to the Caste Scrutiny Committee, Ratnagiri which conducted inquiry into the caste claim of the Petitioner. During the said inquiry, three Vigilance Cell Reports were called for. The Scrutiny Committee relied on all three Vigilance Cell Reports and rejected the caste claim of the Petitioner placing reliance on the Vigilance Cell Report. The Petitioner, therefore, challenged the rejection of claim by filing the present Petition. This Court on 28 July 2021 issued notice to the Respondents in pursuance of which the Respondent Nos. 1 and 2 filed reply wherein it is stated that the Vigilance Cell Reports were disclosed to the Petitioner’s mother during the inquiry but said fact was not mentioned in the roznama of the Scrutiny Committee. It is further stated that the inspection of said reports was given to the mother of the Petitioner at the time of hearing. It is stated that a show-cause notice was not required to be given to the Petitioner twice.

4. Heard learned Counsel for the parties.

5. Learned Advocate for the Petitioner submitted that there is infraction of Rule 17(11) of the Rules of 2012 inasmuch as the Petitioner has not been served with a copy of the Vigilance Cell Report dated 25 March 2019 though the said report was used against the Petitioner. It is, therefore, submitted that non-supply of Vigilance Cell Report results in violation of the principles of natural justice and, therefore, the impugned order passed by the Scrutiny Committee is required to be set aside on this ground alone.

6. Per contra, learned Advocate appearing for Respondent Nos. 1 and 2 supported the impugned order.

7. We have given our anxious consideration to the rival contentions and on consideration of paragraph 15 of the reply filed by Respondent Nos. 1 and 2 it appears that there is substance in the contention of the Petitioner that copy of Vigilance Cell Report dated 25 March 2019 was not given to the Petitioner nor show-cause notice as contemplated by Rule 17(11) of the Rules of 2012 was issued to the Petitioner.

8. We are, therefore, satisfied that there is breach of mandate under Rule 17(11) of the Rules of 2012 and, therefore, it would be necessary to remand the matter back to the Scrutiny Committee for its decision afresh in accordance with law having regard to the non-

supply of Vigilance Cell Report dated 25 March 2019.

9. In order to facilitate a fresh decision upon remand and without going into the merits of the claim of the Petitioner, we quash and set aside the impugned order of the Scrutiny Committee dated 9 August 2019.

10. The Petitioner shall appear before the Scrutiny Committee, Ratnagiri for receiving directions on 31 January 2022. The Scrutiny Committee is directed to decide the matter afresh after furnishing the Petitioner copy of Vigilance Cell Report dated 25 March 2019 and granting opportunity to file his reply to the said Vigilance Cell Report. The Scrutiny Committee, Ratnagiri is directed to decide the matter afresh after giving opportunity of hearing to the Petitioner within a period of three months from the date of receipt of copy of this order.

11. The Petition is disposed of in the aforesaid terms. There shall be no order as to costs.

(AMIT B. BORKAR, J.)

(NITIN JAMDAR, J.)