

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14352 OF 2022

Rekha Rohit Patil @ Rekha Srimant Birajdar .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

Mr.Rajaram V. Bansode a/w Ms.Sheetal Ubale for the petitioner.
Ms.Kavita N.Solunke, AGP for the respondent nos. 1 to 3 -State.
Mr.S.R. Ganbavale a/w Mr.Nikhil Pawar for the respondent no.4.

CORAM : R.D. DHANUKA &
S.G. DIGE, JJ.
DATE : 23rd November 2022

P.C.:-

. Rule. Ms.Solunke, AGP waives service for the respondent nos.1 to 3. Mr.Ganbavale, learned counsel waives service for the respondent no.4. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a writ of certiorari for quashing and setting aside the order passed by the respondent no.2 committee thereby invalidating the caste claim of the petitioner on the complaint filed by the respondent no.4.

3. The petitioner had filed a writ petition bearing No.7336 of 2021 before this Court inter alia impugning the order dated 14th October 2021 passed by the respondent no.2 committee on various grounds. By the judgment dated 11th July 2022, this Court was pleased to set aside the

said order and to remand the matter back to the respondent no.2 committee with a direction to decide the claim of the petitioner afresh by proper verification of the documents and pass appropriate orders after complying with the principles of natural justice within ten weeks from the date of receipt of the said order.

4. The petitioner sought to place reliance on the additional documents before the respondent no.2 committee upon remand the matter. The matter appeared on board thrice before the respondent no.2 committee i.e. on 7th October 2022, 12th October 2022 and 20th October 2022 when the petitioner sought adjournment on the ground that his advocate's father was passed away and was unable to remain present. The application for adjournment however, was opposed by the respondent no.4 before the respondent no.2 committee.

5. In view of the said opposition by the respondent no.4 and in view of the fact that this Court has directed the respondent no.2 to decide the claim of the petitioner afresh within ten weeks, the respondent no.2 has taken a decision to proceed with the matter ex parte and invalidate the caste claim of the petitioner which is impugned by this petition.

6. We have heard the learned counsel for the parties. It is not in dispute that the petitioner had sought three adjournments on the ground that his advocate's father had expired. In view of serious issue raised by the respondent no.4, in our view, presence of the learned advocate representing the petitioner is necessary before the respondent no.2 committee. The respondent no.2 thus ought to have granted a last opportunity to the petitioner after completion of obsequial ceremony of

advocate's father. Instead of granting a last opportunity, the respondent no.2 committee proceeded with the matter and recorded various findings of facts against the petitioner.

7. In our view, interest of justice would be met with if we quash and set aside the impugned order dated 14th October 2021 passed by the respondent no.2 and remand the matter back to the respondent no.2 with a direction to hear both the parties and to pass an appropriate order on its own merit and in accordance with law without being influenced by the observations made and the conclusions drawn in the impugned order. It is ordered accordingly.

8. At this stage, Mr.Bansode, learned counsel for the petitioner invited our attention to the application dated 19th October 2022 made by the petitioner before the respondent no.2 committee seeking certain documents and reports. The impugned order came to be passed on 1st November 2022 without considering the said application.

9. We accordingly direct the respondent no.2 committee to furnish those documents/reports sought for by the petitioner vide application dated 19th October 2022 within two weeks from today. Upon receipt of such documents/reports, the petitioner would be at liberty to file objections to the documents/reports within two weeks thereafter with a copy to be served upon the respondent no.4. It is made clear that no further extension of time would be granted to file such objections.

10. The petitioner as well as the respondent no.4 are directed to remain present before the respondent no.2 committee on 28th December

2022 at 11.00 a.m. before the respondent no.2 committee. If the date assigned by this Court is not convenient to the respondent no.2 committee for any unavoidable reason, the respondent no.2 committee shall communicate an early date to both the parties with a direction to remain present.

11. Both the parties agreed to remain present through their advocates or in-person before the respondent no.2 committee on the assigned date without fail and will not seek any adjournment. It is made clear that the respondent no.2 shall proceed with the matter and shall decide the matter ex parte even if any of the parties remains absent. The respondent no.2 committee shall decide the matter afresh and in accordance with law without being influenced by the observations made and the conclusions drawn in the order dated 1st November 2022 within six weeks from the date of hearing that would be granted to both the parties. Order that would be passed by the respondent no.2 committee shall be communicated to the petitioner as well as the respondent no.4 within one week from the date of passing of such order. If any adverse order is passed against the petitioner, no coercive steps shall be taken against the petitioner by the respondent nos.1 to 3 for a period of two weeks from the date of communication of the order.

12. If the complaint filed by the respondent no.4 is rejected, the respondent no.2 shall not issue Caste Validity Certificate in favour of the petitioner for a period of two weeks from the date of passing of such order. All contentions of both the parties are kept open.

13. Writ petition is disposed off in aforesaid terms. Rule is made

absolute. No order as to costs. Parties to act on the authenticated copy of this order. Learned AGP to communicate this order to the learned counsel for the respondent no.4 for information and compliance.

S.G. DIGE, J.

R.D. DHANUKA, J.