

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

Writ Petition No.7336 of 2021

Mrs. Rekha Rohit Patil nee
Rekha Shrimant Birajdar ... Petitioner
V/s.
The State of Maharashtra & ors. ... Respondents

Mr. Sanjeev P. Kadam a/w. Mr. Prashant Raul, advocate with Mayur G. Sanap and Varsha Thorat, Advocates for Petitioner.

Mr. S.R.Ganbawale i/b. Nikhil Pawar for Respondent No.3.
Ms. K.N.Salunke, AGP for Respondent 1 & 2.

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**CORAM : PRASANNA B. VARALE
& SHRIKANT D. KULKARNI, JJ.**

11th July 2022

P.C.

Heard learned Counsel Shri Kadam appearing for the Petitioner with learned AGP for Respondent No.2-Scrutiny Committee and Mr. Ganbawale, learned Counsel for Respondent No.3.

2. The Petitioner is before this Court challenging the order passed

by the Respondent No.2-Scrutiny Committee dated 14th October 2021. The Petitioner Rekha Rohit Patil (Rekha Srimant Birajdar, maiden name of the Petitioner) contested the election for the Gram Panchayat Rui, Tal, Hatkanangale, Dist. Kolhapur. She was declared as an elected candidate. There is no dispute that the Petitioner was elected as the member of Grampanchayat – Rui. As the Petitioner contested the election for reserved seat, her caste claim was required to be referred for validation. It seems that on a complaint received by Respondent No.3, the Committee was called upon to verify the caste claim of the Petitioner. The Petitioner in support of her claim initially submitted two documents i.e. the caste certificate issued by the Sub-divisional officer, Ichalkaranji dated 27th December 2020 and secondly, school leaving certificate of the Petitioner issued by the Head Mistress of Tarabai Girls High School & Jr. College of Arts and Commerce, Shahapur, Ichalkaranji, Dist. Kolhapur wherein birth date of the Petitioner is mentioned as 17th July 1999 and the date of admission in the school is referred as 4th July 2021. It seems that subsequently the Petitioner submitted three more documents in support of her claim namely i) the school leaving certificate issued in favour of father of the Petitioner through Head Master, Vithhal Ramji Shinde wherein birth date of father of Petitioner is mentioned as 1st June 1965 and the admission date is mentioned as 2nd June 1970. Another document was in the form of school leaving certificate issued in favour of real sister of

the Petitioner wherein the birth date of sister of Petitioner is mentioned as 22nd November 2002 and the admission date in the school is 10th July 2008. Then there is an important document submitted by the Petitioner. The same is of pre-independence era and that is in the form of an entry in Birth and Death Register. This was an entry of 31st March 1944 in respect of birth of Pargonda, son of Dharma Birajdar.

3. On perusal of the Committee's order, it reveals that the Committee referred to two documents for verification to the Vigilance Cell. Vigilance Cell recorded its findings on these two documents and also recorded certain observation in the process of home enquiry. In the caste certificate issued by Sub-divisional officer, Ichalkaranji, caste of Petitioner is mentioned as Teli. In school leaving certificate of the Petitioner the social status of Petitioner is mentioned as Hindu Lingayat Teli. Now admittedly, the another three documents which were subsequently submitted by the Petitioner were not subjected to any enquiry through Vigilance Cell and the Scrutiny Committee made an observation on the document of year 1944 in its findings. It seems that Scrutiny Committee called upon the said document for perusal and arrives at a conclusion that there is certain interpolation in the entry and on the basis of this presumption, the Committee records its finding that the document is a fabricated document and the Petitioner is a Pseudo Claimant. The committee goes one step ahead and

observed that this interpolation is made with the assistance of computer. Now on one hand, the Committee states that there is certain change in the hand-writing pattern and there is also change in the ink. This observation is on the perusal of the record and then on the other hand, the Committee arrives at the conclusion that this interpolation is with assistance of computer. Both these observations are without undertaking a proper enquiry and verification of the documents by calling upon the concerned officer maintaining the record. Thus, on this count alone, we are of the opinion that the Committee failed to appreciate the document in its proper perspective and Committee ought to have verified these documents by settled procedure, firstly, by referring the documents to the Vigilance Cell and if the Committee was of the opinion that this document is not required to be sent for the verification of the Vigilance Cell, the Committee ought to have recorded its findings and thus findings ought to have been recorded by conducting a proper enquiry. As this is not done, the order of the Committee is clearly unsustainable.

4. Accordingly, the Petition is partly allowed. The order of the Scrutiny Committee impugned in the petition is set aside. The Committee is directed to decide the claim of the Petitioner afresh by proper verification of the documents and pass appropriate orders.

5. Needless to state that the Committee shall pass afresh order by following principles of natural justice meaning thereby by giving an opportunity of hearing to the parties. Accordingly, Respondent No.2 Committee is directed to decide the claim of the Petitioner afresh as early as possible and not later than 10 weeks from the date of receipt of the order of this Court.
6. The interim protection granted earlier by this Court to continue till the decision of the Scrutiny Committee.
7. All concerned to act on an authenticated copy of the order.

(SHRIKANT D. KULKARNI, J) (PRASANNA B. VARALE, J)