

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1502 OF 2015

Ku. Bhagyashree d/o. Ashok Kashid,
Aged about 28 years, Occ. Service, R/o Dabki Road,
Old City, Akola, Tah. and District Akola.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through its Secretary,
Department of Social Welfare,
Mantralaya, Mumbai – 32.
2. Divisional Caste Certificate Scrutiny Committee No.2,
Amravati Division, Akola,
Office at District Collectorate, Akola.
3. Superintendent of Police, Akola,
Tah. and District Akola.

RESPONDENTS

Shri O.Y. Kashid, Advocate for the petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for the respondents/ State.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 20/10/2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

The challenge raised in this Writ Petition is to the order passed by the Scrutiny Committee dated 5/1/2015 thereby invalidating the petitioner's caste claim of belonging to "Kunbi" Other Backward Class.

2. It is the case of the petitioner that she and her forefathers belong to Kunbi community and her claim was sought to be supported by various old documents including the birth extract of her great

grandfather of the year 1921 as well as his School Leaving Certificate. The Vigilance Cell while conducting its enquiry had referred to the old documents and observed that insofar as the document of 1921 was concerned, the word “Kunbi” was mentioned. The original record of the said document was however not obtained. Insofar as the document of the year 1936 is concerned, the same had an entry “Marathe”. The Scrutiny Committee after considering the report of the Vigilance Cell observed that though in the document of the year 1921 there was an entry of “Kunbi”, the original record was not found to be available and therefore discarded the said document. On that basis, the claim of the petitioner came to be rejected.

3. The learned Counsel for the petitioner submitted that a son was born to Rangnath in the year 1921 and in the birth record the entry as made clearly indicated the word “Kunbi”. The petitioner’s grandfather was Manikrao and in his document of the year 1936, the word “Marathe” was mentioned. Since there was no caste by name “Marathe”, it was submitted that the earlier document of the year 1921 ought to be considered without giving much weightage to the entry “Marathe”. In that regard, the learned Counsel placed reliance on the decision in *Balasaheb Jaywantrao Patil Vs. State of Maharashtra & Ors.* [Writ Petition No. 7034/2019 decided on 20/12/2019]. Since there was no dispute with

regard to the relationship as indicated, the Scrutiny Committee ought to have accepted the petitioner's claim. By failing to give due weightage to the document of 1921, grave prejudice has been caused to the petitioner. On these counts, it was submitted that the impugned order passed by the Scrutiny Committee was liable to be set aside.

4. The learned Assistant Government Pleader for the respondents supported the impugned order. She referred to the record of the Scrutiny Committee and submitted that the document of 1921 was rightly excluded from consideration since it only mentioned the name "Rangnath" with no further details. The document of 1936 was discarded since there was no entry of "Kunbi" therein. Besides these documents, there was no further material with the petitioner to substantiate her claim. The Scrutiny Committee after considering the entire record had rightly invalidated the petitioner's caste claim.

5. We have heard the learned Counsel for the parties and we have perused the documents on record. We find that the petitioner has principally relied upon the documents of 1921 and 1936 to substantiate her claim. Insofar as the document of 1921 is concerned, the same does bear entry "Rangnath (Kunbi)". Though the Vigilance Cell sought to procure the old record, it was perhaps not made available for due

verification. The Scrutiny Committee observed that from the report of the Vigilance Cell, it was not clear that whether the said document was available or not and proceeded to discard the said document. The petitioner having relied upon the old document of 1921, it was necessary for the Vigilance Cell and thereafter for the Scrutiny Committee to have arrived at some conclusion as regards its genuineness. The said document could not have been discarded only on the ground that the original record was not found. The Vigilance Cell could have taken further steps to procure that document and verify it through other permissible modes. Being a document of the year 1921, it required consideration. The document has not been considered in its proper perspective.

6. It is further found that the petitioner submitted details of her family tree vide affidavit dated 4/1/2013. Though it is the case of the petitioner that her great grandfather Rangnath had three sons namely Mahadeorao, Manikrao and Yashwantrao, the affidavit dated 4/1/2013 does not give the names of all the sons of Rangnath. It was necessary for the petitioner to have submitted a detailed family tree before the Vigilance Cell and the Scrutiny Committee to enable them to appreciate that aspect including the relationship as claimed. Though the Vigilance Cell has not disputed the relationship of Manikrao with Rangnath, in the light of the fact that the birth extract of 1921 indicates a son being born

to Rangnath coupled with the fact that the petitioner's grandfather Manikrao was born on 10/7/1929, it was necessary to indicate the details of the other sons of Rangnath. This aspect would have material bearing on the claim sought to be raised by the petitioner.

7. The decision relied upon by the learned Counsel for the petitioner no doubt holds that mere reference to the words Marathi/Marathe would not be very significant insofar as the old documents are concerned, the said aspect also requires re-consideration in view of the fact that the document of 1936 refers to the entry "Marathe".

8. For all these reasons, we are of the view that the Scrutiny Committee ought to re-consider the petitioner's claim of belonging to "Kunbi" Other Backward Class. The observations made hereinabove are required to be taken into consideration during the exercise of re-consideration.

9. For the aforesaid reasons, the following order is passed :

i. The order passed by the Scrutiny Committee on 5/1/2015 is quashed and set aside. The proceedings are remitted to the Scrutiny Committee at Akola for re-considering the petitioner's claim of belonging

to “Kunbi” Other Backward Class. The petitioner shall furnish detailed family tree in the manner stated hereinabove. The Vigilance Cell as well as the Scrutiny Committee shall consider the weightage to be given to the birth extract of 1921 indicating the birth of a son to Rangnath.

ii. To facilitate such re-consideration, the petitioner shall appear before the Scrutiny Committee on 15/11/2022. The Scrutiny Committee shall within a period of four months from that date take a decision on the petitioner’s claim. Needless to state that the petitioner shall continue in employment as earlier subject to the final outcome of the proceedings.

iii. Rule is made absolute in the aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT