

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 2618/2022

Smt. Anusaya Alias Anita Rajaram Harne,
(Anita Punjaji Gatade)
Aged about 41 Years,
Occ.: Housewife,
R/o. Pimpalkhuta,
Tah. Hingoli, District Hingoli.

..... PETITIONER

// VERSUS //

1. State of Maharashtra,
Through It's Secretary,
Department of Social Welfare,
Mantralaya, Mumbai.

2. District Caste Scrutiny and Verification
Committee, Washim.

3. Secretary, Gram Panchayat,
Pimpalkhuta,
Tah. And District Hingoli.

.... RESPONDENT(S)

Shri M.P. Kariya, Advocate for petitioner

Ms. Kalyani R. Deshpande, Assistant Government Pleader for respondent
nos. 1 and 2

Respondent no. 3 served

CORAM : A.S. CHANDURKAR AND URMILA JOSHI-PHALKE, J.J.

DATED : 25/08/2022

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

Rule. Rule made returnable forthwith. Heard the learned
counsel for the parties.

2. The petitioner claims to belong to “Kunbi” Other Backward Class. She contested the elections to Gram Panchayat, Pimpalkhuta on a seat that was reserved for O.B.C. candidates. She was thereafter elected as a Member of the Gram Panchayat. Her Caste Certificate was referred to District Caste Scrutiny and Verification Committee, Washim (for short the “Scrutiny Committee”) for verification. By the order dated 11.04.2022 her caste claim has been invalidated. That order is the subject matter of challenge in this writ petition.

3. The learned Counsel for the petitioner submits that the Scrutiny Committee erred in invalidating the petitioner’s caste claim. The Vigilance Report that was submitted to the Scrutiny Committee indicated that in the year 1927 the caste of the petitioner’s grandfather had been recorded as “Kunbi”. The relevant record had been verified and the Scrutiny Committee was satisfied with the existence of that entry. In the family tree submitted by the petitioner the name of the petitioner’s grandfather – Tukaram had been mentioned. The relationship of the petitioner with Tukaram was also not disputed. The Scrutiny Committee therefore ought to have accepted the said report and upheld the petitioner’s caste claim. The Scrutiny Committee however relied upon the subsequent documents and after noting some corrections therein proceeded to invalidate the caste claim. It is submitted that there was no

justification for ignoring the report of the Vigilance Cell and on that count the impugned order was liable to be set aside.

4. The learned Assistant Government Pleader for the respondent nos. 1 and 2 supported the order of the Scrutiny Committee and relied upon the affidavit filed on behalf of the respondent no. 2. It was submitted that after considering the entire record, the Scrutiny Committee was satisfied that the petitioner had failed to substantiate her caste claim. In view of overwriting in the School record, the caste claim had been invalidated. Hence, no interference was called for with the impugned order.

5. We have heard the learned Counsel for the parties at length and we have perused the documents on record as well as the report of the Vigilance Cell. In that report, it has been specifically stated that in the Kotwal Book the name of petitioner's grandfather-Tukaram of July 1927 with the entry "Kunbi" was found. Record of the Tahasildar had also been verified and such entry was found. It has been stated that as per the family tree of the petitioner it was established that the Tukaram was the grandfather of the petitioner. The Vigilance Cell also recorded statements of two inhabitants of village Wagholi Kh., Tq. and Dist. Washim who stated that they were aware about the family of the petitioner and the fact that the Tukaram was the petitioner's grandfather.

The Scrutiny Committee while considering the report of the Vigilance Cell has merely referred to the same and has then observed that since the petitioner's father was not staying in the said village the old entry of 1927 could not be accepted. In the statements of two inhabitants of the said village, it is seen that the ancestral property of the petitioner and her family was at the same village. Merely because the father had left the village for sometime, the same cannot be a reason for discarding the entry of July 1927 of the petitioner's grandfather. We find that the material on record in the form of favourable report of the Vigilance Cell has been brushed aside by the Scrutiny Committee without any justification.

6. The Scrutiny Committee has referred to certain subsequent documents of the year 2010 to observe that there was some overwriting thereon. It is not necessary to consider the effect of these recent documents especially when the petitioner's relationship with her grandfather was found to be established by the Vigilance Cell and when the document of 1927 indicating the caste "Kunbi" was also verified. On these grounds, we find that the order passed by the Scrutiny Committee is unsustainable. It is therefore liable to be set aside.

7. Hence for the aforesaid reasons, the order passed by District Caste Scrutiny and Verification Committee, Washim dated 11.04.2022 is

set aside. It is declared that the petitioner has proved that she belongs to “Kunbi” Other Backward Class. The Scrutiny Committee shall within a period of four weeks from the date of receipt of copy of this judgment issue a validity certificate to the petitioner.

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

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

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