

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

WRIT PETITION NO.4612/2022

Muskan d/o Naser Shah,
(Being minor through her father
Natural Guardian Naser Mustafa Shah,
aged about 57 years, Occ. Service,
r/o c/o N. M. Shah, Quarter No. 6/1/3,
Koradi Thermal Power Station,
Koradi Colony - 441111

.....PETITIONER

...V E R S U S...

1. The State of Maharashtra
through its Secretary,
Tribal Welfare Department,
Mantralaya, Mumbai – 32.
2. District Caste Verification and
Scrutiny Committee, Amravati
Division, Amravati through its
Chairman/Member.

...RESPONDENTS

Mr. S. S. Dhengale, Advocate for petitioner.

Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM:- A. S. CHANDURKAR & ANIL L. PANSARE, JJ.

DATED :- 21.11.2022

ORAL JUDGMENT (Per: A. S. Chandurkar, J.)

Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. The challenge raised in this writ petition is to the order
passed by Scrutiny Committee on 31.05.2022, invalidating tribe
claim of petitioner of belonging to Chhparband-Vimukta Jati (A).

3. It is submitted by the learned counsel for the petitioner that the petitioner's real sister Khushbu was also faced with an adverse order invalidating her tribe claim. That order was challenged in Writ Petition No.7967/2019. By the judgment dated 05.11.2020, this Court set aside the order passed by the Scrutiny Committee and directed the issuance of validity certificate to the said petitioner. Pursuant thereto, the Scrutiny Committee has on 09.11.2020 granted said validity certificate. It is thus submitted that by following the law laid down in *Writ Petition No.7967/2019* (supra) and *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and Others*¹, the petitioner is also entitled for validity certificate.

4. Learned Assistant Government Pleader for the respondents however submitted that in paragraph 3 (10) of the order passed by the Scrutiny Committee, it was proposed to seek reconsideration of the judgment of this Court in the case of petitioner therein. For that reason, it is submitted that the present proceeding be deferred until the decision in this regard is taken.

5. On 18.10.2022, this Court directed the learned Assistant Government Pleader to indicate the progress in the said

¹ 2010 (6) Mh. L. J. 401

matter as regards the opinion from the Law and Judiciary Department. Today, learned Assistant Government Pleader submits that the said process is still underway and definite decision is yet to be taken.

6. Learned counsel for the petitioner submits that the petitioner desires to prosecute her studies and hence this Court may consider validity certificate issued to her sister.

7. It is not disputed that by judgment dated 05.11.2020, this Court allowed the writ petition preferred by the petitioner's sister. The direction was issued to grant her validity certificate. This judgment was placed before the Scrutiny Committee, which has referred to the same in paragraph no.3 (10) of the impugned order. We, however, find that the real sister of the petitioner having been issued validity certificate, the ratio of the decision in *Apoorva's* case (*supra*) would be applicable. This would be notwithstanding the right of the respondents to seek review of the earlier adjudication.

8. Hence, for the reasons recorded in judgment dated 05.11.2020 being Writ Petition No.7967/2019, the following order is passed.

(i) Order of the Scrutiny Committee dated 31.05.2022 is set aside.

(ii) It is declared that the petitioner belongs to Chhaparband - Vimukta Jati (A). The Scrutiny Committee shall, within a period of two weeks from today, issue a validity certificate to the petitioner.

(iii) It is clarified that this adjudication is granted subject to any further orders passed with regard to Writ Petition No.7967/2019.

Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)

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