

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO.318 OF 2023

GAYATRI RAMCHANDRA SINGANWAD AND OTHERS
VERSUS
STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY AND
OTHERS

Mr.Mahesh S.Deshmukh h/f Mr.S.S.Phatale, Advocate for the
petitioners.

Mr.S.G.Sangle, AGP for respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : JANUARY 31, 2023

PER COURT :

1. The petitioners are students, all about 18 years of age and who
aspire to take up a professional course. All claim to be belonging to the
"Mannervarlu ST" Category. By the impugned order dated 03.01.2023,
their claims have been rejected by the said common order.

2. This matter was extensively heard on 17.01.2023 and considering
that we found it appropriate to remand the matter, that we permitted
the petitioners to consider this aspect. We granted time to the
petitioners vide the order dated 17.01.2023.

3. Today, the learned Advocate for the petitioners submits on instructions that the petitioners would pray for a remand of the matter by placing reliance upon paragraph Nos. 4 and 5 of the order passed by this Court dated 14.12.2020 in WP No.8114/2020 filed by Limbaji Poshetti Kaypalwad and others Vs. State of Maharashtra and others, which read as under :-

"4. Upon perusal of the judgment delivered at Nagpur Bench in Writ Petition no.903/2007, it is manifest that the same would not apply in the present case. In the said case, the petitioner therein sought to cross examine vigilance officer and the research officer. In the present case, the petitioner seeks to examine the persons whom the committee claims to be related to the petitioner.

5. Unless the Committee proves the relationship of those persons with the petitioner, the burden would never shift on the petitioner to disprove the same. It is only if the fact is proved, the same has to be disproved."

4. The learned AGP on behalf of the Committee relies upon a judgment delivered by this Court at the Principal Seat dated 31.01.2020 in WP No.2332/2018 filed by Darshan Chandravilas Bhamare Vs. The State of Maharashtra and others. He specifically points out paragraph No.32 while opposing the remand, which read as under :-

"32. Mr.Mendadkar would submit that for the proper genealogy and

family tree to be placed on record, this matter be remanded back to the Committee. That is to enable the petitioner to meet the case against him. Mr.Mendadkar submits that if such an opportunity is not given, then, a genuine and bona fide student like the petitioner, who has cleared the degree course, would be the sufferer. He would not be able to enjoy the fruits of the degree certificate or clearance of the qualifying examination. We do not think that this request of Mr.Mendadkar has any basis. First of all, it was for the petitioner's father-Chandravilas to have satisfied the Committee together with the petitioner that their claim was genuine and bona fide. While seeking to establish their claim, they relied upon the caste validity certificate issued in favour of Hemant. The said Hemant obtained the certificate of validity by relying upon the certificate of validity issued to Sadanand. When we find that the claims of both-Hemant and Sadanand were tainted and vitiated by misrepresentation of facts and the Committee was misled in issuing the certificates of validity, then, the second remand to the Committee in this case is of no avail. We cannot allow the parties to get over findings of fact, which are binding on them by such a process. A remand is not to enable the parties to get over the lacunae or defects in their cases. In this case, the lacuna or defect goes to the root of the matter. The finding of fact is that the petitioner, his father and his real uncle stated to be from the paternal side misled the Committee and the certificates of validity issued to the father and real uncle was issued by the Committee after it was misled. The complete information about the family and the relatives was held back from the Committee. Thus, this is also a suppression of material and relevant facts. Once the certificate of validity is denied on such a ground, then, we do not think that we

can accede to the request of Mr.Mendadkar for a remand."

5. The facts of the case in our hands would differ from the facts appearing in Darshan's case (supra). In the said case, this Court had concluded that the closest relatives of Darshan had attempted to mislead the Court. Their claim was not found to be genuine and it was concluded that their claims are tainted and vitiated by misrepresentation of facts.

6. In the instant case, the Committee's conclusion as regards the close relatives of these petitioners, is a part of the impugned order below the title "कारणमिमांसा". In the first chart, there are around 26 persons, who, according to the Committee, are related to these petitioners. Out of the 26, 17 persons have been granted validity certificates. 9 candidates have suffered invalidation of their claims. This chart was placed on record through the Vigilance Cell Enquiry. Apparently, the petitioners denied their relations with those candidates, who had suffered invalidation. This was not tested by ensuring that the invalidated candidates are proved to be related to the petitioner. This Court has held in Limbaji (supra) that when the Scrutiny

Committee brings on record the invalidated candidates and claims that they are related to the claimant, the burden would lie upon the Committee to prove the relationship. This exercise was not performed when the cases of these petitioners were decided by the impugned judgment.

7. If weightage is granted to the 9 invalidities, we can not turn a blind eye to the fact that there are 17 candidates whose claims have been validated. Notwithstanding this position, the fact remains that a proper procedure was not followed by the Committee to establish the relations between the invalidated candidates and these petitioners. Had this process been undertaken, the petitioners would have got the opportunity of establishing their relations with the 17 candidates whose claims were validated.

8. In view of the above, this petition is partly allowed only for the purpose of remanding the matter to the Committee in order to facilitate the Committee an opportunity to prove the relation between these petitioners and the candidates whose claims have been invalidated. Hence, the impugned order dated 03.01.2023 is quashed and set aside.

The files of these 3 petitioners bearing numbers 9/511/Edu/02022/10815, 9/511/Edu/022022/10817 and 9/511/Edu/022022/10816, are remitted to the Kinwat Committee, stationed at Aurangabad.

9. Since the Vigilance Cell Inquiry report has already been submitted and the petitioners are in receipt of the same, the petitioners would appear before the Kinwat Committee stationed at Aurangabad, through their respective fathers or paternal uncles, as per their choice, on 15.02.2023 at 12.00 noon. The Vigilance Committee Enquiry papers alongwith the Roznama would be made available to the petitioners in order to defend their cases. The petitioners are at liberty to make an application for seeking copies of the said documents and the Roznama and if such an application is filed within 5 days, we expect the Committee to grant those documents to the petitioners within 7 days thereafter on payment of requisite fees.

10. The Committee would confront each of these petitioners in the light of its contentions that the 9 invalidated candidates are closely related to these petitioners. The Committee would establish such

relations and an opportunity of disproving the committee's claim would also be afforded to these petitioners. Since the petitioners are students, we expect the entire exercise to be concluded and a final order be passed on or before 31.05.2023.

11. Considering this order of remand, the petitioners would render wholehearted co-operation to the Committee, in as much as, the Committee would not cause any undue haste in rushing through these matters. By granting reasonable opportunities of hearing to the parties, the committee would arrive at a decision.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)