

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

937 WRIT PETITION NO.9128 OF 2019

Pooja D/o Chandrakant Waghmare
Age 22 years, Occ. Education,
R/o. Palasgaon, Tq. Umri, Dist. Nanded. ... **Petitioner**

VERSUS

- 1) The Chairman i.e. Additional District Collector
Scheduled Castes, Scheduled Tribes Other
Backward Class, Special Backward Category,
District Caste Certificate Scrutiny Committee,
Nanded, District Nanded.
- 2) The Research Officer i.e. Secretary (Member)
District Caste Certificate Scrutiny
Committee, Nanded, Dist. Nanded.
- 3) The Collector,
Collector Office at Nanded.
- 4) The Competent Authority i.e.
Sub Divisional Officer, Division Dharmabad,
District Nanded ... **Respondents**

...

Advocate for the Petitioner : Mr. Pahilwan Gautam J.
A.G.P. for the Respondent Nos. 1 to 4 : Mr. A.S. Shinde

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 29.08.2023

PER COURT :

Heard the learned advocate for the petitioner and the learned A.G.P. finally.

2. The petitioner is challenging the invalidation.
3. The learned advocate for the petitioner would submit that the committee has not been pragmatic. Its approach is questionable. It has overlooked the certificate of validity issued to petitioner's real uncle Sambha Ghanshyam Waghmare. Besides, a revenue record of 1952-1953 has also been overlooked. Perverse inference has been drawn without there being

any substance or material to substantiate the inference about the petitioner's family having been migrated into Maharashtra State from Andhra Pradesh. There is a revenue record of the ancestral land which has been conveniently overlooked. He also tenders across the Bar revenue record of village Palasgaon, 'K' Patrak that is record of rights of 1353 Fasli which corresponds to 1943 A.D. which apparently shows the land standing in the name of petitioner's ancestor Nagya Krishna wherein he has been described as 'Mahar' and the entry in his name appears to be as a Karta of the joint family which *prima facie* demonstrates that it must have been an ancestral and joint family property. Ofcourse, this revenue record was not available to be produced before the Scrutiny Committee and given the opportunity the petitioner would produce it before the committee.

4. The learned A.G.P. submits that the petitioner's brother had obtained a certificate of validity by concealing the petitioner's order of invalidation. A notice has been issued to him which has been challenged by him by way of a separate writ petition. He would submit that though the committee has not considered the fact that the petitioner's paternal uncle possesses a certificate of validity, since there was no evidence before the committee to demonstrate that the petitioner has been residing in Maharashtra State since before 1950, the committee has rightly discarded the proposal.

5. Obviously, the enquiry before the scrutiny committee is a quasi judicial enquiry, however, it is not an adversarial litigation. If the committee was to form some opinion it should have been on the basis of objective material. What appears is that whatever favourable to the petitioner has been conveniently overlooked by the committee. A revenue record may be of the year 1953-1954 in the form of Khasara Patrak was produced before the committee and can be found in the committee's file, standing in the name of petitioner's ancestor wherein he has been described as 'Mahar'. Similarly, the petitioner's paternal uncle is a validity holder but the committee even does not comment on that. This is not expected of the

committee which is supposed to undertake a scrutiny of the claims even by resorting to vigilance enquiry.

6. Besides, the learned advocate for the petitioner has now demonstrated to us by producing photo copies of the 'K' Patrak of village Palasgaon in respect of the self same land of 1943 A.D. wherein, as is pointed out by him petitioner's ancestor Nagya Krishna has been described as 'Mahar' and has been shown as a Karta of the joint family. Obviously, this document was not available to the committee to ponder upon and if necessary by resorting to vigilance enquiry.

7. In the circumstances, in our considered view, it is a fit case where the matter deserves to be remanded to the committee for decision afresh and in accordance with law which would enable the petitioner to substantiate her claim by filing additional document and would enable the committee to consider the additional document as well as consider the validity standing in the name of petitioner's paternal uncle.

8. The Writ Petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded back to the respondent scrutiny committee for decision afresh in the light of the observations made herein above.

9. The respondent-scrutiny committee shall permit the petitioner to produce the additional document and it would be at liberty to resort to vigilance enquiry if it thinks fit.

10. The petitioner shall appear before the committee on 04.09.2023 and the committee shall decide the proposal afresh as expeditiously as possible and in any case within six weeks thereafter.

(SHAILESH P. BRAHME, J.)
mkd/-

(MANGESH S. PATIL, J.)