

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

982 WRIT PETITION NO.9836 OF 2022

RAMESH SHANKAR ZALTE RAJPUT
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr N.I. Choudhari
AGP for Respondent/State : Mr P.K. Lakhotiya
Advocate for Respondent No. 7 : Mr N.N. Desale

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 11-01-2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides and perused the record. The petitioner is aggrieved by the decision of the Caste Scrutiny Committee, Dhule whereby it has cancelled the caste certificate of the petitioner as Rajput (Bhamta).

2. The learned advocate Mr Choudhari for the petitioner would vehemently submit that apart from the petitioner's own son, several other relatives have been granted validity. The Scrutiny Committee has merely resorted to questioning the validity granted in favour of the son - Nitin and has not independently examined the record of all other validity holders, particularly in spite of having noted that Nitin himself was granted validity relying upon the validity granted to one Rushikesh Daga. He would submit that a threadbare enquiry should have been undertaken if at all the Committee was inclined to reopen the case of Nitin. Thorough enquiry even in respect of the file of Rushikesh Daga was necessary to discard the validity granted in favour of Nitin.

3. Mr Choudhari would further submit that the observation of the Committee stating that the witnesses whose statements were recorded by the Vigilance Cell mentioned that they were agriculturists, is perverse. The petitioner must get an opportunity to produce the documents in respect of other validity holders and even the Scrutiny Committee will have to go into and examine each of those validities and for that purpose, the matter be remanded.

4. The learned AGP submits that though in the matter of ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh.L.J. 401***, view has been taken that if once validity is granted to a family member in the normal course that should be followed, the Supreme Court in the matter of ***Raju Ramsing Vasave Versus Mahesh Deorao Bhivapurkar & Ors; 2008 DGLS (SC) 1153*** has expressly stated that independent scrutiny can be done even in respect of a person who is relying upon the validity granted to his relatives.

The learned AGP would point out that there are several contra entries which are sufficient to discard the petitioner's claim as belonging to Rajput (Bhamta). The petitioner had the opportunity to explain all these contrary entries when he participated in the enquiry before the Scrutiny Committee.

5. However, the learned AGP fairly submits that Nitin was granted validity only on the ground of validity granted to Rushikesh Daga. It was imperative that there should have been investigation/enquiry of the case of

Rushikesh Daga to ascertain as to on what basis the validity was granted to him.

6. By the impugned order, the Scrutiny Committee merely seeks to reopen the case of Nitin though it has not been expressly mentioned that it was obtained fraudulently. It is not intending to undertake any scrutiny as to how Rushikesh Daga was granted validity. We wonder as to how in spite of being aware that Nitin was granted validity only relying upon the validity granted to Rushikesh Daga and there was no vigilance report, the case of Nitin alone can be re-opened.

7. Be that as it may, the fact remains that, there is a validity granted to the petitioner's son Nitin, correctly or otherwise. In turn, Nitin was granted validity solely on the ground that Rushikesh Daga was granted validity. We wonder as to how without undertaking any examination of Rushikesh Daga's file and the material that was available before the Committee which granted the validity to him, case of validity granted to Nitin cannot be re-opened. The impugned order does not indicate that the Committee was expressly intending to go through the file of Rushikesh Daga.

8. Whatever may be the case, the petitioner intends to place on record the documents to substantiate his claim *albeit* he had participated in the enquiry before the Scrutiny Committee. In our view, even file of Rushikesh Daga may have to be gone into. We do not intend to express anything in that respect on merits.

9. We merely point out that the petitioner intends to substantiate the claim by leading additional evidence which cannot be prevented in the aforementioned facts and circumstances.

10. We allow the writ petition partly, quash and set aside the order under challenge and remand the matter to the Caste Scrutiny Committee for decision afresh by extending an opportunity to the petitioner to lead additional evidence.

11. The decision shall be taken as early as possible and in any event within a period of four months from today.

[S.G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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