

jvs

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION**

**WRIT PETITION NO. 4616 OF 2021**

|                                 |   |             |
|---------------------------------|---|-------------|
| Sudha Rajesh Mirajkar @ Sudha   | } |             |
| Vyankoba Vadone                 | } | Petitioner  |
| <b>Versus</b>                   |   |             |
| The State of Maharashtra & Ors. | } | Respondents |

Mr. Dilip B. Shinde for the petitioner.

Mr. B. V. Samant, AGP for State.

**CORAM: S. V. GANGAPURWALA, Act.CJ.&  
SANDEEP V. MARNE, J.**

**DATE: APRIL 17, 2023**

**P.C.:** (Per-Acting Chief Justice)

1. Rule.
2. Rule is made returnable forthwith. With the consent of the parties, heard finally.
3. The petitioner applied for validation of her caste claim of Bhavsar-OBC.
4. The operative part of the impugned order suggests that the petitioner could not prove the residence of her father or forefathers prior to the notified date, viz., 13<sup>th</sup> October 1967 in the State of Maharashtra. As such, the caste certificate issued by the SDO of the State of Maharashtra is held to be invalid.
5. We have heard the learned advocate for the petitioner and the learned AGP. We have also gone through the judgment of the Scrutiny Committee.
6. Though some observations are made by the Scrutiny Committee on merits of the matter, the Scrutiny Committee has ultimately dismissed the proceedings on the ground that the petitioner could not prove the residence of the family in the State of Maharashtra prior to 13<sup>th</sup> October 1967. As such, the caste certificate cannot be validated.

7. Upon going through the documents, it appears that the forefathers of the petitioner were originally residents of the State of Karnataka. The deemed date for persons belonging to OBC is 13<sup>th</sup> October 1967. Reference can be made to Rule 2(e) of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (hereafter “the Rules” for short).

8. To substantiate the contention that the petitioner is resident of the State of Maharashtra prior to the notified/deemed date, the petitioner has placed reliance upon the appointment order issued to her father in the year 1964. The father of the petitioner is employed by Ghatage Patil under an appointment order dated 3<sup>rd</sup> March 1964 at Kolhapur. Tax receipts are also placed on record subsequent to the issuance of appointment order. Subsequently, there are documents showing that the father of the petitioner is residing at Kolhapur. The petitioner has also taken education in the State of Maharashtra. The documents placed on record suggest that the father of the petitioner came to Kolhapur prior to the deemed date, i.e., 13<sup>th</sup> October 1967. Since 1964, the father of the petitioner and the petitioner are residents of the State of Maharashtra.

9. *Explanation* to Rule 6(1) of the Rules defines migrants. Migrant from other State means a person who has migrated to Maharashtra State from any other State or Union Territory on or after the deemed date. As observed above, the deemed date in the present case is 13<sup>th</sup> October 1967. The father of the petitioner took employment in the year 1964 in the State of Maharashtra. He also purchased property and paid tax in the State of Maharashtra. The petitioner has taken education in the State of Maharashtra. It cannot be said that the father of the petitioner

was migrant as has been held by the Scrutiny Committee. The Scrutiny Committee has misread *Explanation* (i) to Rule 6(1) of the Rules. Reliance on *Explanation* (i) to Rule 6(1) is misplaced. The contingency referred to in *Explanation* (ii) to Rule 6(1) is different. The same applies to a person where Scheduled Caste converts to other caste. The same is not the case in the present matter. In the present matter, Rule 6(1) would squarely apply. It was erroneous on the part of the Scrutiny Committee to conclude that the petitioner is a migrant.

10. The impugned order is quashed and set aside. The matter is relegated to the Scrutiny Committee. The petitioner shall appear before the Scrutiny Committee on 27<sup>th</sup> April 2023. The Scrutiny Committee, thereafter, shall decide the proceedings afresh on merits. The Scrutiny Committee may consider the documents placed on record and arrive at an independent conclusion. We have not considered the documents and/or the contentions on merits of the matter. The Scrutiny Committee may take a decision accordingly.

11. Rule is made absolute in the aforesaid terms. The writ petition is disposed of. No costs.

12. At this stage, the learned advocate for the petitioner seeks leave to place on record additional documents before the Scrutiny Committee.

13. The petitioner may place additional documents within a week from appearance before the Scrutiny Committee. The Scrutiny Committee may conduct vigilance in respect of the said documents.

SALUNKE  
J V

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SALUNKE J V  
Date: 2023.04.18  
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(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)