



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

WRIT PETITION NO.4615/2022

Alvina Aqdas Shah D/o Mohammad
Shakil Shah, aged about 21 Yrs.,
Occ. Student, R/o Near Wahed
Masjid, Ansar Nagar, Tah. Amravati,
Dist. Amravati.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary Social Welfare
Department, Mantralaya, Mumbai 32.
2. District Caste Verification and
Scrutiny Committee, Amravati,
through its Chairman / Member.
3. Vidyabharti Mahavidyalaya
Amravati, through its Principal,
Office at C.K. Naidu Road, Camp
Road, Amravati 444 602.

... Respondents

Mr. S. S. Dhengale, Advocate for the Petitioner.
Ms. T.H. Khan, Assistant Government Pleader for Respondent
Nos.1 and 2.

CORAM :- SMT. ANUJA PRABHUDESAI &
MRS. VRUSHALI V. JOSHI, JJ.

DATED :- 20.12.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of the learned counsel for the parties.

2. The petitioner has challenged the order passed by the District Caste Verification and Scrutiny Committee, Amravati invalidating the caste claim of 'Chapparband' dated 31.1.2022.

3. The petitioner belongs to 'Chapparband' caste which comes under the category of Vimukta Jati (A). The petitioner has submitted her caste claim in the prescribed format i.e. format No.16 on 6.12.2018 along with school leaving certificate dated 14.8.2013, school leaving certificate of her father Mohammad Shakil Shah dated 24.6.1992, the extract of birth register obtained from Kotwal Book of great-grandfather Nadushah had a son in 1927. On the basis of above documents the uncles and cousins (blood relatives) of the petitioner have received the validity certificates. The petitioner claims that the Caste Scrutiny Committee has erred in discarding these old documents on the basis of which the caste claim of the blood relatives of the petitioner has been validated.

4. The respondent has filed reply and opposed the petition stating that the documents filed on record are of different entries. In respect of validity certificates at document Nos.9 to 11 it is submitted that in government letter dated 29.6.2009 and government circular dated 23.3.2011 it is mentioned that while verification of caste claim of 'Chpparband' three criteria are to be considered (1) Muslim religion, (2) the word Shah in the name and (3) the caste Fakir is mentioned in the name of forefather. This Court in Writ Petition No.2802/2014 passed an order in which it is made clear that the validity certificates issued only on the basis of these three criteria inspite of having contrary evidence of forefathers of pre-independence era mentioning caste as Fakir are not binding upon the Committee to consider while deciding the caste claim of 'Chapparband'.

5. The pre-constitutional documents of the petitioner shows the petitioner's father belongs to Fakir which is included in the list of Other Backward Category. Due to government letter

dated 29.6.2009 which is issued in personal capacity was shown in the name of Government and number of persons who actually belongs to Fakir took disadvantage of this letter and got validity certificate of the caste 'Chapparband'. Thus the applicants took disadvantage of the validity certificate and got the appointment and admission for the seats which are reserved for candidates of Vimukta Jatis by depriving the genuine claimants of Vimukta Jatis. The petitioner has submitted the school leaving certificate of his grandfather showing the entry of caste Fakir. She belongs to caste Fakir. Only on the basis of circular dated 23.3.2011 she claims to be 'Chapparband' and the said circular is already cancelled. Hence the respondent Committee prayed to dismiss the petition as the order passed by the Committee is just, legal and proper.

6. Heard both sides. Perused the record.

7. The petitioner has filed validity certificates of the blood relatives whose names are mentioned in the family tree which was submitted before the Vigilance Cell. The oldest document shows that the caste of blood relatives of the petitioner as 'Chapparband'. In Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in **2010(6) Mh.L.J. 401**, the Division Bench of this Court has held that where during the course of enquiry the candidate submits a Caste Validity Certificate granted earlier certifying that a blood relatives of the candidate belongs to the same caste as that claim by the applicant, the Committee may grant such certificate without calling for Vigilance Cell Report. However, if the Committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it. This decision ruled upon in Ajiyan Tauhid s/o Vahid Shaha. Vs.State of Maharashtra (Writ Petition No.7472 of 2022) and several other petitions decided by this Court.

8. In the instant case, the caste claim of the blood relatives of the petitioner that they belong to Chapparband caste has been validated. It is not the case of the respondent that the said certificates were obtained by misrepresentation or fraud. In such circumstances, the Scrutiny Committee was not justified in invalidating the caste claim of the petitioner, when those blood relatives of the petitioner are certified to be of Chapparband caste. Hence, the petition is allowed.

9. The impugned order of the Caste Scrutiny Committee is set aside. The respondent No.2-Committee is directed to issue validity certificate of 'Chapparband' to the petitioner within a period of six weeks from the date of judgment.

10. Rule is made absolute in the above terms. There shall be no orders as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(SMT. ANUJA PRABHUDESAI, J.)

Tambaskar.