

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3691 OF 2019

Sagar S/o Nagora Athawale
Aged about 23 years. Occ. Service
R/o At Devarda, Post Palsod,
Tq. Akola, Dist. Akola

... Petitioner

-vs-

1. The District Caste Validity Scrutiny
Committee, Akola Division,
Akola having office at Collector office,
Administrative Building, 2nd floor,
Akola 444001

2. Bruhanmumbai Mahanagarpalika
The office of Chief Fire Officer,
Through its President Bhayakhada
Samadesh Centre 1st floor, Bapurao
Jagtap Road, Bhayakhada West
Mumbai 4400008

... Respondents

Mrs Prachi T. Joshi, Advocate for petitioner.
Shri A. S. Fulzele, Additional Government Pleader for respondent No.1.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, J.

DATE : July 26, 2023

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties.

Challenge raised in the present writ petition is to the order dated
15/02/2019 passed by the Scrutiny Committee invalidating the
petitioner's claim of belonging to 'Mahar' Scheduled Caste.

2. On hearing the learned counsel for the parties and after perusing record of the Scrutiny Committee, it is seen that the petitioner sought to rely upon document dated 06/07/1939 of his great grandfather Mana Keshav having entry Mahar. The Scrutiny Committee has discarded said document on the ground that in the family tree submitted by the petitioner there was reference to great grandfather as Manaji.

3. Be that as it may, along with the present writ petition the petitioner seeks to rely upon a primary school certificate dated 20/12/1929 that has been issued in the name of Mana son of Keshav where his caste is shown as 'Mahar'. In addition, there is a copy of sale-deed dated 20/02/1939 wherein the purchaser of the property is shown as Mana Keshav with the entry 'Mahar'. The petitioner has tendered an affidavit of the petitioner's father alongwith aforesaid sale-deed. It is further seen that these old documents were not placed by the petitioner before the Scrutiny Committee while seeking grant of validity certificate. Since these pre-independence documents of the year 1929 and 1939 refer to the name Mana Keshav, we are inclined to grant an opportunity to the petitioner to prove his case by remanding the proceedings to the Scrutiny Committee for fresh consideration.

4. Hence the following order is passed :

- (i) To enable adjudication of the petitioner's caste-claim afresh, the order dated 15/02/2019 passed by the Scrutiny Committee is set aside.
- (ii) The proceedings are remanded for fresh consideration. The petitioner shall file all documents on which he seeks to place reliance in support of his claim.
- (iii) To enable consideration of the petitioner's claim, he shall appear before the Scrutiny Committee on 07/08/2023.
- (iv) The process of verification be completed within one month from the said date.
- (v) Till the petitioner's caste-claim is verified, his services shall not be terminated for want of validity certificate.

5. Rule is made absolute in aforesaid terms with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)