

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

WRIT PETITION NO.3481 OF 2021

Chandrashekhar s/o Vishwanath Sakharpohe,
aged about 58 years, Occ. Service as Auditor Grade-I,
Co-operative Societies (ADF), Akola, Resident of
Gayatri Nagar, Kaulkhed Road, Akola

... Petitioner

-vs-

1. State of Maharashtra thr. its Secretary,
Ministry of General Administration Department,
Mantralaya, Mumbai 400 032
2. State of Maharashtra, through its Secretary,
Ministry of Co-operation, Marketing and
Textile, Mantralaya, Mumbai 400 032
3. Divisional Joint Registrar, Cooperative
Societies (Audit), Amravati Division,
Amravati
4. District Caste Certificate Scrutiny Committee,
Akola, Collectorate Office, Administrative Building,
2nd Floor, Akola

... Respondents

Shri Narayan Phadnis, Advocate for petitioner.

Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE : March 08, 2023

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

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

The challenge raised in this writ petition is to the order dated
19/07/2018 passed by the District Caste Certificate Scrutiny
Committee (for short, Scrutiny Committee), Akola invalidating the

petitioner's claim of belonging to Lingder Scheduled Caste.

2. The petitioner came to be appointed on the post of Auditor Grade-I, Co-operative Societies on 04/02/1994 on a post that was reserved for a Scheduled Caste candidate. Since the petitioner was required to obtain validity certificate for his continuation in service, his caste certificate was thus forwarded to the Scrutiny Committee for verification. The Scrutiny Committee received the report of the Vigilance Cell on 18/05/2018 after which explanation of the petitioner was called by 28/05/2018. The petitioner remained absent on that date. Thereafter the proceedings were fixed on 07/06/2018 and 18/06/2018 on which dates the petitioner was again absent. Consequently on 19/07/2018 the Scrutiny Committee in absence of the petitioner passed an order invalidating his claim.

3. It is submitted by the learned counsel for the petitioner that he had challenged the order of Scrutiny Committee in Writ Petition No.3735/2020 however, for want of necessary pleadings to justify his absence before the Scrutiny Committee, the writ petition was not entertained on merits but it was disposed of by granting liberty to file a fresh writ petition. Accordingly this writ petition has been filed.

4. Before challenging the order of Scrutiny Committee, the petitioner had sought to protect his services by being placed on supernumerary post till his superannuation during pendency of the writ petition. However, his services were terminated by the order dated 01/12/2020.

5. It is submitted by the learned counsel for the petitioner that the petitioner was not present before the Scrutiny Committee on 28/05/2018. However on 07/06/2018 which was the next date, the petitioner's son met with an accident and he was required to be hospitalized. The petitioner could not attend the proceedings on that day. On the subsequent date of the proceedings which was 18/06/2018 the petitioner's daughter was to be married. For these reasons he again remained absent. It is submitted that absence of the petitioner was not deliberate but on account of aforesaid reasons. An opportunity be therefore granted to seek adjudication of his claim on merits. The petitioner seeks to rely upon old documents to substantiate his claim of entitlement to a validity certificate.

6. The aforesaid request is opposed by the learned Assistant Government Pleader by urging that three opportunities were granted to the petitioner to substantiate his claim. The petitioner did not issue

any communication to the Scrutiny Committee indicating the reasons of his absence. The Scrutiny Committee had no option but to proceed further in the matter. Hence no interference was called for.

7. We have perused the writ petition and the documents filed along with it. Un-disputedly on 28/05/2018 the petitioner remained absent in the proceedings before the Scrutiny Committee. However his explanation for his absence on 07/06/2018 and 18/06/2018 deserves to be accepted in the light of documents on record. The petitioner's son met with an accident and was required to be hospitalized on 07/06/2018. Similarly the petitioner's daughter was married on 18/06/2018 for which reason he did not attend the proceedings before the Scrutiny Committee. We find that in these facts an opportunity deserves to be granted to the petitioner to substantiate his claim. We also note that petitioner's services have since been terminated by the order dated 01/12/2020 for failure to submit a validity certificate. Consideration of the petitioner's claim on merits is warranted since the social status of the petitioner is sought to be adjudicated.

8. In these facts, the interests of justice would be served by passing the following order :

- (i) The order dated 19/07/2018 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The proceedings are remanded to the Scrutiny Committee for fresh adjudication in accordance with law.
- (iii) To enable the petitioner's claim to be considered, the petitioner shall attend the office of Scrutiny Committee at Akola on 20/03/2023.
- (iv) Since the report of the Vigilance Cell is received by the Scrutiny Committee, the proceedings shall commence from that stage by granting an opportunity to the petitioner to show cause against the observations by the Vigilance Cell.
- (v) The proceedings be decided by the end of June 2023 on their own merits and in accordance with law.
- (vi) Needless to state that other ancillary prayers would depend upon the adjudication of the Scrutiny Committee and same are kept open for future consideration if the occasion arises.

With these directions, the writ petition is partly allowed and disposed of. Rule accordingly. No costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)