

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

WRIT PETITION NO. 4305 OF 2023

Ku. Palak d/o Vinod Murai,
aged about 18 years, Occ. Student,
R/o Near Murai Palace,
Shegaon Naka, Tarangan Nagar,
Shegaon Naka V.M.V., Amravati – 444604.

PETITIONER

.....VERSUS.....

The District Caste Certificate Verification Scrutiny Committee,
through its President Member Secretary, Amravati.

RESPONDENT

Shri V.R. Choudhari, Advocate for the petitioner.
Ms S.S. Jachak, Assistant Government Pleader for the respondent.

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

DATE : AUGUST 11, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

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

2] Since the petitioner seeks to pursue higher education, the Writ Petition is taken-up for final disposal.

3] The petitioner is aggrieved by the order passed by the Scrutiny Committee dated 23/5/2023 invalidating her claim of belonging to 'Ahir' - Other Backward Class.

4] *Inter alia*, the petitioner has relied upon five validity

certificates issued to various blood relatives from her paternal side. In addition, the document dated 1/2/1935 of her great grandfather with the entry 'Ahir' has also been relied upon. The Scrutiny Committee has however chosen to give importance to the statements of two persons that were recorded by the Vigilance Cell who were stated to be the residents of the same village who stated that the caste of the petitioner was 'Kachi Ahir'.

5] We have heard the learned Counsel for the parties and we have perused the documents on record. It is not in dispute that the validity certificates were issued to the cousin brothers and sisters of the petitioner namely Shubham, Suraj, Saurabh and Ku. Pooja. While issuing these validity certificates, the Scrutiny Committee was satisfied that the claim as made was correct and it was satisfied with the said documents. Once the blood relatives of the petitioner were issued such validity certificates, they ought to have been granted due importance and weightage rather than the statements made by two persons who the petitioner says the family were not aware of. Such stand has been taken while submitting reply to the report of the Vigilance Cell. Except this reason assigned by the Scrutiny Committee, there is no other reason for invalidating the petitioner's claim of belonging to 'Ahir' - Other Backward Class.

6] Insofar as the aspect of affinity is concerned, the same

cannot be treated to be a litmus test as held by the Larger Bench of this Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others* [2023(2) Mh.L.J. 785]. In addition, the document of the year 1935 has also been duly verified by the Vigilance Cell. In these facts, the view taken by the Scrutiny Committee is unsustainable.

7] For the aforesaid reasons, the following order is passed :

ORDER

The order dated 23/5/2023 passed by the Scrutiny Committee is set aside. It is declared that the petitioner belongs to 'Ahir' - Other Backward Class. The Scrutiny Committee shall within a period of three weeks issue validity certificate to the petitioner. Till the validity certificate is issued, the petitioner is free to rely upon the copy of this judgment to indicate that her claim of belonging to 'Ahir' - Other Backward Class has been upheld.

8] Rule is made absolute in the aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)