



28-J-WP.-5857-23.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5857 OF 2023

Ku. Bhumika Ramchandra Sisodia
Aged about 17 years, Occ. Student,
Through natural guardian (Mother)
Rina Ramchandra Sisodiya,
Aged about 52 years, Occ. Household,
R/o Ward No.16, near Jama Masjid,
Mochipura, Dhamangaon (Railway),
Tq. Dhamangaon (Railway), Dist. Amravati ... Petitioner

vs.

1. The State of Maharashtra,
Through its Principal Secretary,
Social Justice and Special Assistance Dept.
Mantralaya, Mumbai – 32
2. The District Caste Certificate
Scrutiny Committee, Amravati,
Through its Chairman, B-wing,
1st Floor, Dr Babasaheb Ambedkar
Samajik Nyaya Bhavan, Camp Road,
Amravati ... Respondents

Shri N. Z. Mirza, Advocate for the petitioner.
Shri S. M. Ghodeswar, Assistant Government Pleader for respondents.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI,
Date : December 15, 2023

Judgment : (Per : Nitin W. Sambre, J.)

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

Judgment corrected as per order dated 27/02/2024

The challenge in the present writ petition is to the order dated 30/05/2023 passed by the respondent No.2-Scrutiny Committee whereby the caste-claim of the petitioner belonging to 'Mochi' Scheduled Caste came to be rejected thereby cancelling her caste certificate dated 23/09/2022.

2. The learned counsel for the petitioner submitted that the petitioner is a Class-XII student. On 24/09/2022 a proposal was forwarded to the respondent No.2-Scrutiny Committee for verification of her caste-claim. In support of her claim of belonging to 'Mochi' Scheduled Caste the petitioner sought to rely upon various old documents that is of 1972 in relation to her father's school admission, 1945 in relation to her grandfather and the document in relation to her great-grandfather of the year 1934 in which the caste is recorded as 'Mochi'. According to the learned counsel these pre-constitutional entries without there being any reason are discarded by the Scrutiny Committee by relying upon the Vigilance Cell report. According to him even to the Vigilance Cell report, the petitioner has submitted her reply and has pointed out that but for mere statements in the Vigilance Cell report, there is no iota of evidence to counter the aforesaid old entries and that being so, the impugned order is not sustainable.

3. The learned Assistant Government Pleader would urge that the order impugned is based on the information provided by the Vigilance Cell report. Further he would try to substantiate the impugned order based on the opinion recorded by the Vigilance Officer. The Vigilance Officer had visited the original place of the petitioner and on enquiry, the people residing there stated that the petitioner belongs to 'Mochi' Scheduled Caste and professes Hindu religion. As such, the learned Assistant Government Pleader fairly submitted that except the aforesaid, there is no other material on record to substantiate the impugned order.

4. We have appreciated the aforesaid submissions.

Perusal of the impugned order so also the record of the Scrutiny Committee reveals that in support of the claim put forth in the form of pre-constitutional documents entry dated 08/12/1934 pertaining to the great-grandfather of the petitioner, entry dated 17/07/1945 in respect of the grandfather of the petitioner who was admitted in a primary school and the entry of 1972 of the petitioner's father in respect of his school admission, consistently depict that the caste of the petitioner's forefathers is 'Mochi' Scheduled Caste. When the aforesaid record is not controverted by the Vigilance Cell thereby bringing on record some other entries in relation to these three persons and having referring to the fact

that all these three pre-independence era entries exist, the same have more evidentiary value. In this backdrop the Committee ought to have considered and allowed the claim of the petitioner for grant of validity of belonging to 'Mochi' Scheduled caste. Rather, the Committee has relied on the opinion of the Vigilance Officer in his report that the people residing at the original place of the petitioner have stated that the petitioner belongs to 'Marwadi Mochi' and practices Hindu religion.

5. The Vigilance Officer neither recorded statement of any of the villagers or neighbour to substantiate his opinion or procured any documents so as to infer that the petitioner's claim is not genuine. That being so, the reliance placed on the Vigilance Report by the Scrutiny Committee for rejecting the caste-claim of the petitioner cannot be said to be justified.

6. Once the petitioner has discharged her burden casted under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, D-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, it was for the respondent-Scrutiny Committee to deal with the same. In this backdrop, we are of the view

that the impugned order is not sustainable.

7. Accordingly we pass the following order :

- (a) The order dated 30/05/2023 passed by respondent No.2-Scrutiny Committee, Amravati is set aside.
- (b) It is declared that the petitioner has proved that she belongs to 'Mochi' Scheduled Caste.
- (c) The Scrutiny Committee shall within a period of four weeks of receiving the copy of this judgment issue validity certificate to the petitioner.
- (d) Till the Scrutiny Committee issues the validity certificate, the petitioner can rely upon this judgment to indicate that her claim of belonging to 'Mochi' Scheduled Caste has been accepted.
- (e) Rule is made absolute in aforesaid terms. No order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre,J.)

Asmita