

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

WRIT PETITION NO.6971/2022

Divya Mukesh Chawda,
aged about 18 Yrs., Occupation
R/o Mukesh Chawada, Near Vitthal
Mandir, Patvi Pura, Amravati,
Tah. and Dist. Amravati.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai 400 032.
2. District Caste Verification Scrutiny
Committee, Amravati Division,
Amravati.
3. Sub-Divisional Officer, Amravati,
Dist. Amravati.

... Respondents

Mr. Siddhant I. Ghatte, Counsel for the Petitioner.
Mr. N.S. Rao, Assistant Government Pleader for Respondents
1 to 3.

CORAM: ROHIT B. DEO & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 19.4.2023

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

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

Heard finally by consent of learned counsel for the parties.

2. The petitioner is assailing the order dated 22.8.2022 passed by the Scrutiny Committee-respondent 2 of invalidating the petitioner's claim to belong to Mochi Scheduled Caste.

3. The petitioner was studying in Kapadia Gujarati Junior College, Amravati. On 25.2.2022 proposal for caste validity certificate was sent by the Junior College of the petitioner. In pursuance to the proposal of the caste validity of petitioner the Vigilance Cell submitted its enquiry report. Despite the fact the documents were found to be authentic and Vigilance Cell Report is in favour of the petitioner, respondent 2 issued notice to the petitioner calling upon her to submit pre-constitution documents relating Mochi caste.

4. The petitioner submitted that one real cousin uncle, cousin brother and one sister are having validity certificates for caste Mochi. She has also filed the validity certificate of Shailesh Vallabh Chawada.

5. Respondent 2 observed that the petitioner failed to file any pre-constitution document to show her caste as Mochi. Other ground is that the petitioner has not filed any document to establish the relation with Shailesh Chawada and it is further reasoned that as per the judgment of the Hon'ble Gujarat High Court in the case of *Samasth Gujrat Mochi Samaj V/s. Union of India* the caste Mochi does not fall in Scheduled Caste.

6. Learned counsel for the petitioner submits that the petitioner filed four validity certificates of her cousins. Although the petitioner has submitted validity certificate of real cousin brother Shailesh Chawada along with genealogical tree thereby proving his relation with her, respondent 2 wrongly held that the

petitioner has not filed any document to show her relation with Shailesh Chawada.

7. The learned Counsel for the petitioner would submit that the Scrutiny Committee committed serious error in discarding the validity certificates in favour of her family members and clearly failed to appreciate that the decision of the High Court is of no relevance.

8. We have perused the affidavit-in-response filed on behalf of the Scrutiny Committee. It is submitted that the petitioner originally belonged to Gujarat and is a native of village Vasagad in Junagadh District. It is further submitted that in State of Gujarat, other than the Mochis of Dang district and Umargaon Tahsil in Valsad District Mochis are Other Backward Category. It is submitted that the petitioner failed to establish her relationship with validity holder Shailesh. The Vigilance Cell recorded the statement of the petitioner's father. Petitioner's father stated that

their forefathers belong to village Vasagad in Junagadh District and the traditional occupation is to make shoes and *chappals* from leather.

9. We note that the documents placed on record by the petitioner are not questioned. The documents do refer to the caste as Mochi. However, the claim is rejected on the ground that the father of the petitioner stated that the family originally is from Gujarat and as per the amendment, only Mochis of District Dang and Umargaon Tahsil in Valsad District are declared Scheduled Caste.

10. We note that the petitioner did disclose name of validity holder Shailesh in the genealogical tree, on affidavit. It is true, as observed by the committee, that Section 8 of the Maharashtra Scheduled Castes and Schedule Tribes, Do-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and

Verification of) Caste Certificate Act, 2000 obligates the claimant to discharge the burden of proving the claim. However, inasmuch as the vigilance enquiry does not appear to question that the petitioner is related to Shailesh, the least which was expected was that the petitioner ought to have been put on notice that the Scrutiny Committee is expecting production of documentary material to establish the relationship. We note that according to the Vigilance Cell enquiry, the statement of the petitioner's father was recorded and he claimed that the family migrated from Vasagad in Junagadh District to Amravati 100-125 years ago. We further note that the Vigilance Cell Report refers to the admission record dated 02-7-1947 of Velji Shamji Chawada. The Vigilance Cell enquiry has found on investigation on the admission register of Manibai Gujrati School, Amravati, that the caste of Velji Shamji Chawada is shown as Mochi. We further find that the Scrutiny Committee did refer to the school record dated 02-7-1947 of Velji Shamji Chawada. Neither the relationship between Velji Shamji Chawada, who is the grandfather of the

petitioner, nor the school admission entry dated 02-7-1947 is questioned.

11. In our considered view, since the family of the petitioner appears to have settled in the State of Maharashtra much prior to independence, and there is a pre-constitution entry which refers to the caste of the petitioner's grandfather as Mochi ,the Scrutiny Committee is clearly erred in referring to and relying upon the presidential order as amended, and made applicable to the State of Gujarat.

12. We set aside the order impugned passed by the Scrutiny Committee and allow the petition in terms of prayer clauses (i) and (ii), which read as under :

“(i) quash and set aside the impugned order dated 22-8-2022 passed by respondent No.2-District Caste Verification and Scrutiny Committee, Amravati (Annexure-4).

(ii) direct the respondent No.2-District Caste Verification and Scrutiny Committee, Amravati to issue validity certificate to the petitioner for her caste "Mochi" S.C., within a period of one month in the interest of justice."

13. The petition is disposed of in the aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

Tambaskar.

Signed By: NILESH VILASRAO
TAMBASKAR

Private Secretary
Date: 29.05.2023 15:40