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916 sr.no..odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4251 OF 2024

JAINABI HASAN MAKANDAR

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND ANOTHER

.....Respondent

.....
Advocate for the Petitioner : Mr. THAKUR LAXMI R.
AGP for Respondents: Mrs. M.N. GHANEKAR.

CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.

DATE : 24TH APRIL, 2024.

P.C. :-

Issue notice to respondents.

2. AGP waives notice for respondents. The petitioner has challenged order dated 12.9.2023 passed by respondent No.2. The petitioner contends that she belong to “Fakir Caste”, which is under OBC category. She had been granted a Caste Certification by S.D.O. Tuljapur on 27.9.2019. Thereafter, the matter was taken before the respondent No.2 for issuing certificate of validity. It appears that Vigilance Inquiry was made and a report came to be submitted on 14.8.2023. The impugned order came to be passed on 12.9.2023, thereby, it was informed that the petitioner should file the documents, including the documents at Sr. Nos. 12 and 16 as per the said impugned order. The

respondent No.2 further says that if these documents are produced, then, further verification would be done, otherwise, the application would stand disposed of.

3. After considering the impugned order, we are of the opinion that no scrutiny in respect of other documents need to be done when such conditional order is passed by the respondent No.2. Better and good course that ought to have been adopted by respondent No.2, was to call upon the petitioner to file those documents, which according to respondent No.2, would be necessary for deciding the claim. After giving opportunity, if no explanation is given and documents are not produced; then only respondent No.2 ought to have given a decision on merits. Present impugned order is half-hearted attempt to dispose of the claim of the petitioner and therefore, it deserves to be set aside.

3. We could also see from the impugned order that it is a format order which cannot be allowed to sustain. There are fill in the blanks in the said order, so also, list of 18 documents is given and notice put that if applicant is in need of a certificate, then applicant should produce those documents out of list of 18, to which there is a tick mark. Such orders cannot be allowed to sustain. Hence, the following order :-

O R D E R

- [a] Writ petition is partly allowed;
- [b] Impugned order dated 12.9.2023 is hereby set aside;
- [c] Respondent No.2 to call upon the petitioner if respondent No.2 want further documents.
- [d] For that purpose, petitioner to appear before the

respondent No.2 on 2.5.2024 and thereafter, the respondent No.2, after giving opportunity of being heard to the petitioner, to decide the claim within a period of one month from date of appearance of petitioner before him i.e on or before 2.6.2024, on the basis of documents which are already produced and would be produced.

[e] We hope and trust that the observations regrading format of the order not to be used would prevail and respondent No.2 would restrain itself from using format document/order henceforth.

[f] Writ petition stands disposed of.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-