



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 WRIT PETITION NO. 7965 OF 2024

Samiksha d/o Kacharu Pardeshi,
Age 18 years, Occ. Education,
R/o. Kond, Tq. & Dist. Dharashiv.

... Petitioner

VERSUS

- 1) The State of Maharashtra,
through Principal Secretary,
Social Justice Department,
Mantralaya, Mumbai-32.
- 2) District Caste Certificate
Scrutiny Committee Dharashiv,
Through its Member Secretary.

... Respondents

Advocate for the Petitioner : Mr. Phatale Sagar S.
AGP for Respondent nos. 1 & 2 : Mr. K.N. Lokhande

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 07.08.2024

PER COURT :

Heard both sides finally at the stage of admission, in view of the urgency being demonstrated.

2. The petitioner is challenging the order of respondent no. 2-scrutiny committee refusing to validate her Rajput Bhamta [VJ(A)] certificate under the provisions of the Maharashtra Act, XXIII of 2001.

3. The learned advocate for the petitioner would submit that the petitioner's great grandfather Vithoba Tatya Pardeshi, who was admitted in a school on 22.06.1947, specifically describing in the caste column of the school register as Rajput Bhamta. His record has not been properly

considered by the committee. The birth record of his grandfather Manik similarly describing him as Bhamta Rajput of the year 1956, has also been overlooked. Discarding such old record against the recent alleged contrary record is perverse and inconsistent with the decision in the matter of ***Anand V. Committee for Scrutiny and Verification of Tribe Claims and others; (2012) 1 SCC 113.***

4. The learned advocate would further submit that after following due process of law petitioner's father Pintu @ Kacharu was issued with a certificate of validity. Vigilance enquiry was conducted and by a reasoned order he was found entitled to have a certificate of validity. The committee ought to have accepted this and granted the petitioner a certificate of validity by following the decision in the matters of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326*** and ***Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and others; 2010 (6) Mh.L.J. 401.***

5. Per contra, the learned A.G.P. would oppose the petition and submit that the scrutiny committee has taken a plausible view. This Court cannot sit in appeal and undertake fresh scrutiny of the evidence. The committee has expressly stated the efforts undertaken by it to verify the school record of the petitioner's great grandfather and grandfather. No reasoned order was passed in the matter of petitioner's father and the petition be dismissed.

6. We have considered the rival submissions and perused the original file of the respondent no. 2-scrutiny committee. It is necessary to remind ourselves that as laid down in the matter of ***Anand (supra)***, the oldest record would carry a greater probative value as compared to the recent one, especially so when the old record is of the pre-constitutional period, obviously, because the entries made during that time would not be vulnerable of being attributed with any ulterior motive to derive the benefit of reservation.

7. The petitioner has been relying upon the school record of his great grandfather Vithoba Tatya Pardeshi of 1947. The committee in the impugned order mentions that since the original school record was seized by the Scrutiny Committee at Aurangabad in some matter, its members could not go through the original record but could get it verified from the vigilance officer. However, the impugned order conspicuously omits to state what was reported by the vigilance officer.

8. The original file made available to us by the learned A.G.P. contains original communication whereby the vigilance officer on 20.06.2024 informed the respondent-scrutiny committee about having personally inspected the original record of the school available with the scrutiny committee Kinwat, headquartered at Chhatrapati Sambhajinagar. He expressly mentioned therein that the general school register is not in a sound condition but contains entry at Sr. No. 1 bearing name Pardeshi Vithoba Tatya and describing in the caste column as 'Rajput Bhamta' having birth date in the requisite column as 06.05.1937 and showing date of admission as 22.06.1947. More importantly, he expressly mentioned in the report that he could not notice any change in the handwriting or ink and also did not notice any overwriting, manipulation or scratching. Surprisingly, the impugned order, for the reasons best known to the scrutiny committee, does not objectively deal with this report of the vigilance officer dated 20.06.2024. When the committee has been discharging a responsible task of certifying the social status, it was expected of the committee to have objectively considered this report, which apparently is favouring the petitioner.

9. This school record being a record of pre-constitutional period can easily be relied upon. It substantiates petitioner's claim. Irrespective of the subsequent contrary entries and even some inferences drawn by the committee in respect of manipulation, following **Anand (supra)**, this oldest pre-constitutional record would outweigh the subsequent record.

10. Besides, admittedly, the petitioner's father has been issued with a certificate of validity though the committee has observed that he had resorted to fraud, however, for lack of such power to undertake review, it has decided to put up a proposal to the State Government and to approach the High Court. The fact remains that it is not the observation of the committee that petitioner's father was issued with a certificate of validity merely for asking, without resorting to due process.

11. Be that as it may, once having noticed that the school record of petitioner's great grandfather Vithoba of the year 1947 is reliable and entitles her to have a certificate of validity, the circumstances in which her father was issued with a certificate of validity, fraud or otherwise, are inconsequential. The impugned order is liable to be quashed and set aside.

12. The Writ Petition is allowed. The impugned order is quashed and set aside. The respondent no. 2-committee shall immediately issue a certificate of validity to the petitioner as belonging to Rajput Bhamta [VJ (A)].

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-