



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

976 WRIT PETITION NO. 13429 OF 2018

SWATI BHANUDAS KAMBALWAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. A.S. Bayas

Addl. GP for Respondents : Mr. P.S. Patil

...

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

DATE : 16 OCTOBER 2024

PER COURT [*Shailesh P. Brahme, J.*]:

Heard both the sides finally as the petitioner has been allotted a college of Pharmacy and she is in need of a validity certificate.

2. Being aggrieved by judgment and order dated 12.07.2018 passed by the Scrutiny Committee, invalidating the tribe certificate, present petition is filed. The petitioner is relying on validities of Somnath Kondiram Kambalwad and pre-constitutional record of Dnyanoba and Kondiram. It is submitted that the findings of the Committee in respect of revenue record is perverse. The petitioner is ready to face consequences as per *Shweta Balaji Isankar Versus State of Maharashtra and Others*, in Writ Petition No. 5611/2018.

3. Learned AGP supports impugned judgment and order. He tenders on record original papers of the petitioner and earlier

validity holders. He would submit that validity of Somnath is rightly discarded by the Committee as incompatible school record was suppressed and the pre-constitutional record is found to be tampered during vigilance. He would further submit that the tampering is apparent from coloured photo copies and additional vigilance was conducted to verify the said record. It is submitted that Somnath could not get through the affinity test. Therefore, the tribe claim is liable to be rejected.

4. We have considered rival submissions of the parties and we have gone through the original papers.

5. There is no dispute about the relationship of the petitioner with Somnath. In case of Somnath, vigilance inquiry was conducted. The school record of Dnyanoba Ganesh Kambalwad of 1945 and Kondiram Hariba Kambalwad of 1945 was verified along with other entries. By a speaking order, he was issued with validity certificate. He was relying on the validities of Ganpati Damodhar Boyane and Madhukar Govind Rekulwad. However, it was candidly disclosed that they were maternal side relatives.

6. Learned AGP takes us through additional vigilance inquiry report dated 06.07.2018 and the coloured photocopies of a school record of Dnyanoba and Kondiram. We have perused coloured photocopies of entry of Dnyanoba as well as that of Kondiram. We have also gone through the letter dated 02.07.2018 addressed by the Headmaster of the concerned school at Mukhed to the Vigilance Officer about the school entries. We have our reservations about those two entries. It would not be safe to rely

upon them as they are. The revenue record does not reflect any caste. The Committee has specifically recorded that Khasrapatrak of Fasli 1351 bears caste 'Koli'. The revenue record has not been properly verified. The incompatible school record from 1969 in the name of Limbabai has also been traced out.

7. Anticipating the outcome, the learned Advocate for the petitioner would submit that in case the court was not inclined to allow the writ petition, the petitioner may be extended an opportunity to go back to the Committee and substantiate his claim by leading additional evidence.

8. We are of the considered view that no case is made out by the petitioner to grant her validity on the ground of parity or independently on merits. However, certain aspects of the matter need to be reconsidered by the Committee. This is not an adversarial litigation. The social status of the petitioner is at stake. We, therefore, propose to remand the matter to the Scrutiny Committee. Hence, we pass following order :

ORDER

- i. The Writ Petition is allowed partly.
- ii. The impugned judgment and order dated 12.07.2018 is quashed and set aside.
- iii. Respondent no. 2 – Scrutiny Committee shall reconsider the matter afresh by extending opportunity to the petitioner and / or soliciting vigilance report, if required and shall take the

decision on its own merits within a period of three months.

iv. The petitioner shall appear before the Committee on 25.10.2024.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Thakur-Chauhan/-