



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO. 13167 OF 2023

LAIBA FATIMA IRFAN KHAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND ANOTHER

...
Advocate for petitioner : Mr. C.R. Thorat
AGP for the respondent – State : Mr. N.D. Batule
...

**CORAM : MANGESH S. PATIL &
S.G. CHAPALGAONKAR, JJ.**

DATE : 09 AUGUST 2024

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both sides.

2. The petitioner is challenging the order of invalidation passed by the scrutiny committee.

3. Though it appears that the petitioner's father possesses validity certificate, we have gone through the original file of her father. The then committee had resorted to vigilance enquiry and even there is a reasoned order holding him entitled to have a certificate of validity. However, pertinently, petitioner's father was granted validity only on the basis of his own school record and the school record of father – Osman Khan stated to have been admitted in the Kendriya Prathamik Shala on 01-06-1961 at serial no. 29 / 240.

4. The vigilance officer in the present matter has reported that the entry could not be traced in the school register.

5. The statement of headmaster Mr. Sapkal who had issued the extract of the school register relied upon by the petitioner and even her father was called by the committee. He admitted the claim and since having retired had submitted that he would respond within a week but had not turned up.

6. Even the petitioner in her reply to the vigilance report, has not expressly controverted the remark of the vigilance officer about having verified the school record.

7. In the light of such circumstances, the learned advocate for the petitioner submits that the matter be remanded back to the scrutiny committee for taking a decision afresh by extending the petitioner an opportunity to lead evidence.

8. Simultaneously, if the school record of the petitioner's grandfather is of such a decisive nature, and there was already enquiry report questioning the genuineness, it was imperative for the committee to extend the petitioner an opportunity to explain the circumstances or could have taken initiative in calling for the school record and examining it. Nothing seems to have happened. For the reasons best known to the committee, it relied upon headmaster who had issued extract of the school record and believing him that he would

respond, had passed the judgment and order without there being any response by him.

9. Since, it is not an adversarial litigation, we deem it appropriate that the committee should undertake a threadbare scrutiny of the claim, in the light of the above-mentioned observations and decides it afresh by extending an opportunity to the petitioner, and if necessary, by resorting to fresh vigilance enquiry.

10. The writ petition is allowed partly.

11. The impugned order is quashed and set aside. The matter is remanded back to the committee for fresh enquiry, in the light of above observations. The petitioner shall appear before the committee on 19 August 2024 and the committee shall decide the proposal as expeditiously as possible and in any case within four (4) weeks thereafter.

12. As regards the school record of petitioner's father, stated to have been seized in connection with some crime and has been lying with the District and Sessions Court, the committee may also undertake necessary steps for inspecting even that school register if it entertains a doubt about its genuineness.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/