

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6182 OF 2022

Vinayak Dattasing Shiledar

... Petitioner

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Mohan H. Chandanshiv for the Petitioner

Mr. V.M. Mali, AGP for the Respondent - State

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 01 MARCH 2024

P.C. :-

We have heard the learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Respondent – Divisional Caste Certificate Scrutiny Committee, Kolhapur dated 17 December 2019 invalidating the caste certificate issued to the Petitioner on 13 August 2019 as belonging to Rajput Bhamta (Vimukta Jatis).

3. The Petitioner had appeared for the examination for the Masters in Business Administration in the year 2019 and his caste certificate accordingly was referred to the Scrutiny Committee. A

complaint was filed by one Dr. Anil Salunke that the Petitioner does not belong to Rajput Bhamta Community and he has obtained caste certificate based on bogus documents and the same be cancelled. The Petitioner has not made this complainant as party Respondent.

4. Before the Scrutiny Committee, the Petitioner produced his caste certificate, his school leaving certificate, school record of his father, the grand father, the cousin and other paternal relatives. The Vigilance Cell enquiry was conducted and the enquiry conducted at the native place of the Petitioner. The neighbours informed that the Petitioner's family is of agriculturist. Since the Vigilance Cell report was not in favour of the Petitioner, a copy was given to the Petitioner and an opportunity was given to the Petitioner to show cause. The Petitioner submitted his explanation. After considering the explanation and the material on record, the Scrutiny Committee came to the conclusion that the Petitioner has not produced any cogent material prior to 21 November 1961, the relevant date. The Scrutiny Committee also took note of the reports of the interpolation of the record. As regard the records of some persons produced by the Petitioner, the Petitioner failed to prove the relationship with those persons. Accordingly, the Scrutiny Committee invalidated the caste certificate issued to the Petitioner on 13 August 2018.

5. The Rajput Bhamta (Vimukta Jatis) was notified for benefits of the reservation policy by including it in the list of

Vimukta Jatis from 21 November 1961 and therefore, the scrutiny committee rightly called upon the Petitioner to show the evidence prior to that date. Under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, burden is on the claimant to justify and prove his caste claim.

6. As regard the school leaving certificates of the Petitioner are concerned, those are of the year 1995. As regard the entry in the school records of the Petitioner's father Dattasing Shiledar, the entry is Hindu Rajput. Similarly, in the case of the Petitioner's grand father Vitthal Shiledar, it is Hindu Rajput. These entries show that the Petitioner's father joined the school in the year 1979 and the Petitioner's grand father joined the school in the year 1948-1949. The other documents produced by the Petitioner that of Subhash Harising Shiledar, was of the year 1984. The revenue records of certain persons were produced by the Petitioner but none of them showed any entry of Rajput Bhamta (Vimukta Jatis).

7. The Petitioner relied upon the school records in respect of Sulochana Sahadevsing Shiledar and Savitri Sahadevsing Rajput of the year 1943-1944 showing the entry as Rajput Bhamta. However, the Scrutiny Committee has observed that the Petitioner could not establish the relationship with these two persons. The Scrutiny

Committee has noted that based only on the revenue record the Petitioner could not establish the relationship with Sulochana and Savitri. It is also on record that when the original record register was examined, the word 'Bhamta' has been interpolated. Therefore, the Petitioner cannot rely on the records in respect of Sulochana and Savitri.

8. The Petitioner argued before the Scrutiny Committee had relied upon a circular stated to be issued on 27 March 2001 that if there are no documents prior to 1961 based only on local enquiry without insisting on the documents, the validity certificate should be given. Once the Act of 2000 has come into force placing burden on the claimant and that Rules have been framed under the said Act laying down the procedure for verification, solely based on this circular, the validity certificate cannot be issued. In respect of the Petitioner's father and the grand father, the entry is of Hindu Rajput. Hindu Rajput and Rajput Bhamta, as observed by the Scrutiny Committee are different communities.

9. Therefore, there was no cogent evidence produced prior to 1967 by the Petitioner, the entries in respect of the school record produced of the Petitioner's father and the grandfather do not support the claim of the Petitioner and that the Petitioner failed to establish the relationship with the persons whose evidence was relied upon. Furthermore, the Vigilance Cell enquiry has revealed that the

Petitioner's family for almost 50 years is doing agriculture when that is not the traditional occupation of Rajput Bhamta Community.

10. Considering these factors, we do not find that there is any perversity or fundamental error committed by the Scrutiny Committee to warrant interference in writ jurisdiction. The Scrutiny Committee has followed the procedure laid down under the Act and the Rules and has given an adequate opportunity to the Petitioner. The Petitioner has failed to discharge the burden under Section 8 of the Act of 2000.

11. The Writ Petition is accordingly rejected.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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