

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3616 OF 2021

Aisha Ibadullah Momin

...Petitioner

Versus

State Of Maharashtra Through The
Department Of Social Justice And Ors

...Respondents

Mr. D.V. Sutar a/w Kiran Kulkarni, Anjali Shaw and Deepak Jain for
the Petitioner.

Ms. Nisha Mehra, AGP for the Respondent Nos. 1 to 3.

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

DATE : 21 MARCH 2024

P.C. :

. Heard the learned counsel for the parties.

2. By this petition, the Petitioner has challenged the order passed by the Scrutiny Committee invalidating the caste certificate issued to the Petitioner by Respondent No.3 Sub-Divisional Officer, Rajapur, District-Ratnagiri dated 21 May 2019 as Momin-191 (Other Backward Class).

3. The Petitioner is a student and was desirous of applying for a seat under the reserved category. Therefore, the caste certificate issued to the Petitioner was referred by the College where the Petitioner was taking studies, to the Scrutiny Committee for verification. The Scrutiny Committee directed inquiry through

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Vigilance Cell. Report came to be filed, which was served upon the Petitioner with a notice, and the Petitioner submitted documents in support.

4. We note that except caste certificate of the Petitioner, a certificate issued by the President of Muslim Backward Council and the report/certificate of Police Patil, Chikhalgaon, no other document shows the entry as Momin for the Petitioner. As regards the documentary evidence regarding the entry Momin is concerned, the Scrutiny Committee itself in various decisions have taken a view that in this religion (Muslim), it is not a practice of recording sub-caste and therefore, primarily the emphasis would be on the evidence of the ancestors and family members carrying out the traditional profession, which is in this case of weaving. The Vigilance Cell report and the Revenue Record indicate that the traditional occupation was of agriculture. The document also shows that the letters of the year 2020 issued by the Petitioner's father stated that the occupation of Petitioner's grandfather and great grandfather and great great grandfather was of agriculture and fishing. Therefore, the Scrutiny Committee came to the conclusion that the Petitioner has not proved the caste claim.

5. The learned counsel for the Petitioner submitted the Vigilance Cell inquiry is not carried out as per the Rules as the Vigilance Cell has to interview the local representatives which has not been done.

6. There is a reference to the field visit in the Vigilance Cell report. Apart from this position, the Vigilance Cell had collected revenue records. The Petitioner's father himself had admitted by giving a letter that as regards traditional occupation of himself being a mechanical draftsman and all ancestors carrying out farming and fishing. He also stated that except his immediate kin, no other relatives belong to Momin. Under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000, burden is on the Claimant to substantiate the caste claim. In view of the clear statement made by the Petitioner's father itself that none in the family was carrying out the occupation of weaving which is the traditional occupation of Momin, we are not inclined to accede to the request of the Petitioner that another Vigilance Cell inquiry be ordered. In the field visit the Vigilance Cell has already carried out the inquiry. The Petitioner's father himself has admitted the position of traditional occupation not being of weaver. Merely on the basis of a certificate issued by a President of an Association, caste claim cannot be proved.

7. Therefore, we find no error in the view taken by the Scrutiny Committee. The evidence on record has been properly appreciated. The petition is accordingly rejected.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)