

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

WRIT PETITION NO. 6311 OF 2021

Smt. Shobha Dattoba Shinde ... Petitioner

versus

State of Maharashtra and Others ... Respondents

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Mr.R.K.Mendadkar with Mr.Sumit S. Kate for the Petitioner.

Mr.B.V.Samant, Addl. GP with Ms.Nisha Mehra, AGP for
Respondent No.1-State.

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

DATE : 23 JANUARY 2024

P.C.:

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order dated 9 April 2019 passed by Respondent No.2- the Scrutiny Committee invalidating the caste certificate issued to the Petitioner on 23 June 1989 as belonging to Hindu Bhoi community, Nomadic Tribe.

3. The Petitioner had applied for a certificate as belonging to Bhoi community to Respondent No.3- the Sub Divisional Officer, Pune who granted it on 23 June 1989. On the basis of the caste

certificate, the Petitioner was appointed in service of the State in the reserved category. The caste certificate was sent for verification to the Scrutiny Committee. Before the Scrutiny Committee, the Petitioner submitted documents pertaining to herself, her father and the mother. The Petitioner also submitted her genealogy. The Scrutiny Committee directed to conduct a field inquiry of Police Vigilance Cell and to submit its report. On 7 December 2020, a copy of the Vigilance Cell report was given to the Petitioner.

4. After giving an opportunity to the Petitioner, the Scrutiny Committee, by the impugned order invalidated the caste certificate. Reason given by the Scrutiny Committee is that the Petitioner has failed to produce any document prior to 1961. The observation of the Vigilance Cell that the Petitioner has not produced any document prior of 1961 is also relied upon. The Petitioner's documentary evidence in support of the caste claim is of the year 1969. However, we note that there is neither any contra material prior to 1961. The Vigilance Cell report also refers to the documents in respect of the Petitioner. Then it refers to the documents which the Petitioner herself has produced. Thereafter, the Vigilance Cell also referred to the field inquiry and the statement of the Petitioner, and observed that the Petitioner has not produced any document, as stated above.

5. Under 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 (the Act of 2000), the Rules titled as the Maharashtra Scheduled Castes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (the Rules of 2012) have been framed in respect of verification of the caste certificate issued as a member of the Nomadic Tribes. Under Rule 13 of the Rules of 2012, the functioning of Vigilance Cell is enumerated. The Vigilance Cell has to visit permanent place of residence and conduct domestic inquiry. The Vigilance Cell has to record the statements of responsible persons from concerned area and collect information as regards name, age, educational qualification, occupation etc. of the family members and for that purpose visiting the Office of the Competent Authority or revenue or school.

6. In the present case, all that Vigilance Cell has done is referred to the documents which the Petitioner has placed on record before the Scrutiny Committee. The Vigilance Cell does not seem to take any effort for ascertaining the record of the Petitioner's relatives. At least it is not stated so in the Vigilance Cell report. In the Vigilance Cell report, there is reference of field inquiry where the statements of neighbors support the Petitioner. In the impugned order, we find that there is no discussion as regards the Vigilance Cell report. The caste certificate is invalidated on the ground that the Petitioner did

not submit any documents prior to 1961. However, the Vigilance Cell is neither considered nor there is any contra material nor any effort has been made by the Vigilance Cell to collect documents. The entire matter has proceeded only on the documents placed on record by the Petitioner. No doubt, it is true that burden is on the Petitioner under Section 8 of the Act of 2000 to justify the caste claim, it is equally important that the Vigilance Cell carries out comprehensive inquiry.

7. Therefore, considering totality of the circumstances, we are of the opinion that the impugned order is required to be quashed and set aside and the matter needs to be remanded to the Scrutiny Committee.

8. Accordingly, the impugned order dated 9 April 2019 passed by Respondent No.2- the Scrutiny Committee is quashed and set aside. Caste claim of the Petitioner stands restored to the file of Respondent No.2-the Scrutiny Committee. The Petitioner will appear before Respondent No.2- the Scrutiny Committee on 20 February 2024. Thereupon the Scrutiny Committee will set up a timetable for disposal.

9. Writ petition is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)