

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

WRIT PETITION NO. 17418 OF 2024

Mrunali Mukund Sawardekar

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. R.K. Mendadkar, Advocate for the Petitioner.

Mr. B.V. Samant, Addl. G.P. a/w Ms. Reena Salunkhe, AGP for the
Respondent – State.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 5th DECEMBER, 2024

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P.C. :-

1. This is a matter wherein the Petitioner seeks for her minor daughter Suhani, a caste certificate of belonging to the ‘Chambhar’ Scheduled Caste Category, from the maternal side. The minor daughter, is said to be around 12 years of age.

2. It is well settled that such cases have to be scrutinized with great care and caution, and there has to be a thorough investigation for the fear of misuse of the law, keeping in view that a child of a destitute mother can claim the social status from the

mother and not from the father, in the light of *Rameshbhai Dabhai Naika V/s. State of Gujarat And Others, (2012) 3 SCC 400*. One has to be even more careful while dealing with such cases, if the father is from a higher/upper caste and the mother is from a backward class category. So is the case before us.

3. The learned Advocate for the Petitioner, in his endeavour to establish the case of the Petitioner, relies upon the Judgment of the 7th Family Court, Mumbai dated 17th March, 2017, delivered in Petition No.F-2072 of 2016. Having perused the said Judgment, we find that the Petition was filed by mutual consent invoking Section 13-B of the Hindu Marriage Act, 1955. The Petitioner is not in Employment in Public Sector or Private Sector. She is said to be self Employed and the learned Advocate submits on instructions, that she operates an Orchestra.

4. From the Judgment of the Family Court, it appears that the Petitioner has not sought any share from the property of her husband. She has not sought any permanent alimony or maintenance, in as much as, she has not sought any financial support even for the daughter, who was only three years of age,

when the Petition was filed before the Family Court. The Petitioner has also not sought any shelter from the husband. The only reason for seeking divorce by mutual consent was that they have different temperaments and they feel that they cannot live happily together. This was the only ground set out.

5. In our experience, while dealing with cases of such nature, we realise the necessity of a detailed scrutiny. We have to verify whether such divorce by mutual consent on a flimsy ground of the couple having different temperaments, is not a farce. On obtaining a divorce, a claim is made by the Petitioner that her daughter should be given a certificate of a reserved category, since she is living with her mother.

6. The learned Advocate for the Petitioner makes a statement on instructions from the Petitioner present in the Court that she has not entered into a second marriage. On a query, as to whether her former husband has entered into a second marriage, she has answered in the affirmative. To verify such statement, we direct the Petitioner to add the former husband as Respondent No.4, on the address mentioned in the Petition before the Family Court. So also,

the Petitioner shall place on record a self-attested copy of her Aadhar Card and PAN Card.

7. Addition be carried out forthwith. Documents to be submitted within two weeks along with a short affidavit.

8. After compliance of the above directions, office to **issue notice** to the added Respondent No.4, returnable on **29th January, 2025**.

9. This matter would be listed in the fresh admissions category.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)