

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.104 OF 2018
WITH
INTERIM APPLICATION NO.15925 OF 2024
IN
WRIT PETITION NO.104 OF 2018

Mimonee Rakesh KumbharePetitioner

Versus

The State of Maharashtra and Ors.Respondents

Mr. R.K. Mendadkar for the Petitioner.

Mr. B.V. Samant, Addl. GP a/w. Ms. Tejas Kapre, AGP for
Respondent Nos.1, 2, 4 and 5.

Ms. Pallavi Dabholkar for Respondent No.3.

Mr. V.M. Mali, AGP for Respondent No.6.

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

DATE : 20th DECEMBER, 2024

P.C. :-

1. On 17th December, 2024, we have passed the following
order :

*“1. Not on board. Upon production, taken on
board.*

*2. Today at 10.30 a.m. the learned Advocate for
the Petitioner has cited an order of the Hon'ble
Supreme Court dated 16th December, 2024,
wherein this Court is called upon to decide the
matter before start of the vacation(before*

21/12/2024). Hence, we have taken this matter on the production board at 2.30 p.m today.

3. The learned AGP desires to consider the record and proceedings of the Petitioner as well as the solitary validity holder namely Eknath son of Mahadev to find out whether he is related to the Petitioner. He submits that his file is not with him as the Writ Petition is taken on the production Board.

4. In view of the above, stand over to 18th December, 2024 at 2.30 p.m.”

2. On 18th December, 2024, this matter was again heard at 2.30 p.m. and was part-heard. The same was posted to 19th December, 2024 at the request of the Petitioner. On 19th December, 2024, the Petitioner tendered a photostat copy of the affidavit of one Mr. Sanjay alias Vijay Kumbhare, son of Eknath Kumbhare. The said affidavit along with accompanying documents (6 pages), is taken on record and marked as '**X-1**' for identification.

3. Considering the genealogy tree at page 77 of the Petition paper book, the two sons of Eknath are shown to be Manish and Vijay. The affidavit X-1 tendered by Mr. Mendadkar (photostat copy) indicates a person by name Sanjay who claims that he is the

same Vijay.

4. Since we developed an apprehension about the veracity of the identity of Sanjay alias Vijay and whether Sanjay and Vijay are two different persons, we called upon Mr. Mendadkar to take instructions from the father of the Petitioner, who was present in Court, as to the whereabouts of the second son of Eknath, viz., Manish. On instructions, Mr. Mendadkar submitted that Sanjay alias Vijay does not know the whereabouts of his biological brother Manish and he is not in contact. As the hearing progressed, Mr. Mendadkar submitted, on instructions, that the Petitioner desires to give up her claim of being related to the sole validity holder Eknath Kumbhare and she would pursue her claim as a stand alone case on the basis of the old records and that, she would take a chance for the PG admission in the last round.

5. Considering the peculiar situation as above, we deemed it appropriate to call upon Mr. Mendadkar as to whether the Petitioner would enter an affidavit for making such a statement. For the said reason, we again adjourned the matter for today.

6. Today, the Petitioner, who is present in Court, has tendered an affidavit dated 20th December, 2024 (2 pages), in original form. The same is taken on record and marked as 'X-2' for identification. The Petitioner has stated in the affidavit X-2 as under :

“1. I say that the respondent no. 2 committee in its impugned order has not considered evidential value of two pre-Constitutional documents of the year 1923 and 1928, respectively showing the caste of my paternal great great grandfather namely Nagorao Kumbhare on the ground that the same are not verified by vigilance cell.

2. I say that even the service record of my grandfather Waman Kumbhare showing his duly accepted tribe as Halba, scheduled tribe though verified by vigilance cell has also not been considered.

3. I further say that I am not relying upon certificate of validity issued to Eknath Mahadev Kumbhare.

4. In these circumstances, I pray this Hon'ble Court to set aside the impugned order and remand back the matter to the respondent no.2 committee for re-consideration and decision before 10.1.2025 considering the Schedule prescribed by State - CET Cell for Third Round.”

7. The learned AGP has pointed out to us the two documents which, though were before the Committee, were not verified by the Vigilance Cell. The said two documents are at page 110, dated 21st January, 1955 pertaining to Nagorao, son of Harbaji Chimnaji Kumbhare and the second document at page no. 111, is an extract of the School record which is issued by the Head Master of the Primary School, Thugaodev, Panchayat Samiti Narkhed, District Nagpur, dated 30th November, 2015.

8. By a cursory glance at the 2nd document, we are of the view that such a document should not be looked at superficially. The original record of the School purportedly dating back to 1923, should be verified by the Vigilance Cell. The learned AGP is under instructions that this Court could remand the matter and the Vigilance Cell will thoroughly verify these two documents.

9. Mr. Mendadkar submits that the Petitioner has already lost two opportunities earlier for the PG admission. She hopes that the Committee would decide the issue before 10th January, 2025. The learned AGP submits that the Committee would endeavour to

complete this exercise before 10th January, 2025. Mr. Mendadkar submits, on instructions, that besides these two documents, no new document would be placed on record. If that be so, or if new points are raised, the learned AGP submits that it would be circumspect as to whether such enquiry would then be completed before 10th January, 2025.

10. In view of the above statements, the impugned order is quashed and set aside and the file of the Petitioner is remitted to the Competent Committee, Kokan Division at Thane.

11. The Petitioner tenders her email address and WhatsApp cell number, for easy correspondence. The hand written details tendered by the Petitioner are stapled to the Petition paper book on the index. The same reads as under :

Email ID : mimoneek1997@gmail.com
WhatsApp No. : 9004939544

12. The Vigilance Cell would conduct the enquiry and the Committee would issue notice to the Petitioner on her email address and/or the WhatsApp number. Mr. Mendadkar submits that in the

peculiar facts and circumstances of this case, there would be no insistence for a 15 days clear notice for hearing. The Vigilance Cell report can be delivered on her email address or WhatsApp. The Petitioner is permitted to tender written notes of submission.

13. With the above directions, **the Writ Petition is disposed off**. The pending **Interim Application** would not survive and **also stands disposed off**.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)