



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 44 OF 2018

Varsha d/o Gajanan Vaidya @ Varsha
w/o Vishnuji Machewar,
Aged 38, Occupation – Service,
R/o Primary School, Linaga,
Tahsil Katol, District Nagpur.

.... **PETITIONER**

VERSUS

- 1) District Caste Scrutiny Committee,
District Nagpur.
- 2) Zilla Parishad, Nagpur,
through Chief Executive Officer.
- 3) State of Maharashtra,
through its Secretary, Department of
Social Justice & Special Help,
Secretariate Extension Bldg. State
Secretariate, Maharashtra State,
Mumbai 400032.
- 4) Block Education Officer,
Panchayat Samiti, Katol,
Tahsil Katol, District Nagpur.

.... **RESPONDENTS**

(Petition is dismissed
against respondent No.4
vide Registrar
(Judicial)'s order dated
24-8-2018)

Mr. N.D. Meshram and S.D. Borkute, Counsel for the petitioner,
Mr. S.M. Ghodeswar, AGP for respondent Nos.1 and 3,
Mr. Ajinkya Joshi, Counsel h/f. Mr. S.N. Gaikwad, Counsel for
respondent No.2.

**CORAM : NITIN W. SAMBRE
& ABHAY J. MANTRI, JJ.**
DATED : 6th AUGUST, 2024

ORAL JUDGMENT : (Per : NITIN W. SAMBRE, J.)

Rule. Heard finally by consent of the learned Counsel for the parties.

2. The challenge in the petition is to the order dated 27-12-2017 passed by respondent No.1-District Caste Scrutiny Committee, Nagpur (for short, “the Committee”) whereby the caste claim of the petitioner for Vimukta Jati category (Pardeshi Bhamta) for issuance of validity came to be rejected.

3. The petitioner holds a Caste Certificate dated 19-2-1994 issued in Revenue Case No.3034/ARC-81/1993-94.

4. Based on the said Caste Certificate, the petitioner has secured a public employment from the Vimukta Jati category which has prompted the Caste Certificate to be forwarded for verification by the employer.

5. In support of the claim, the petitioner has produced in all twelve documents. The oldest document at serial number 12 is a photocopy of the sale-deed dated 16-2-2040 wherein the caste of grandfather of the petitioner is recorded as ‘Pardeshi Bhamta’. The other document which the petitioner is sought to rely upon is the school leaving certificate

issued by the Municipal Authorities thereby certifying that the petitioner belongs to Pardeshi Bhamta caste.

6. The aforesaid documents are discarded by the Committee thereby observing that the sale-deed and the copy of the school leaving certificate which contains caste entry as Pardeshi Bhamta are interpolated one.

7. In the aforesaid background, Mr. Nitin Meshram, learned Counsel appearing for the petitioner would invite attention of this Court to both these documents. According to him, the document viz. school leaving certificate issued by the Municipal Council Primary School, Mowad in categorical terms records caste entry of Pardeshi Bhamta on the date of securing admission in the said school. The petitioner claims to have got admitted in the said school on 30-4-1988. According to him, the word 'Bhamta' is allegedly inserted later in the said certificate, however, the Committee has recorded that the school authorities have stated that on the original record of the school there exist entry of 'Pardeshi Bhamta'. According to the learned Counsel for the petitioner, the said fact can be verified from the statement issued by the vigilance cell officer in its report dated 30-9-2014.

8. The learned Counsel for the petitioner would invite our attention to the sale-deed dated 16-2-1940 wherein the grandfather of the petitioner namely Ramnath Chindu Pardeshi Bhamta has purchased an house property in Aazad Ward, Old Vasti, Mowad from one Ganu Suleman Musalman, resident of Mowad for an amount of Rs.91/-.

9. According to Mr. Nitin Meshram, in 1991, in century flood, the entire Mowad village washed away resulting into not only loss of lives of the people who are connected with the documents in question but also the original record was destroyed. Mr. Nitin Meshram would urge that in the aforesaid factual matrix, it can be inferred that the said documents being part of the record of the Committee is genuine one. As such, he would urge that the order impugned goes contrary to the record, particularly the old entry is not properly appreciated.

10. As against above, Mr. S.M. Ghodeswar, learned Assistant Government Pleader for respondent Nos.1 and 3 and Mr. A. Joshi, Counsel holding for Mr. S.N. Gaikwad, learned Counsel for respondent No.2 would support the order impugned. Mr. S.M. Ghodeswar would urge that the original of the sale-deed was not produced. According to Mr. S.M. Ghodeswar, even from bare perusal of the document viz. school leaving certificate referred above, it can be inferred that the

word 'Bhamta' in the caste column was written in different ink and word. As such, dismissal of the petition is sought.

11. The fact about the petitioner was issued caste certificate on 19-2-1994 is not in dispute. Similarly, the school leaving certificate certifying that the petitioner has taken education in the Municipal Council Primary School, Mowad in the year 1988 is also not disputed. The school leaving certificate in 1988 is based on the entry in the school record wherein the caste of the petitioner is mentioned as 'Pardeshi Bhamta'. The said fact is justified from the statement given by the Officer attached to the vigilance cell report. It is apparent that in old school record of 1988 the caste of the petitioner is categorically recorded as Pardeshi Bhamta. It cannot be inferred that merely because there is a change in the writing in duplicate transfer certificate thereby inserting word 'Bhamta' can be considered against the interest of the petitioner as original school record contains the entry of 'Pardeshi Bhamta'.

12. In support of aforesaid finding, it can be very much observed that once the original school record depicts a caste entry of Pardeshi Bhamta, there is no reason to disbelieve such entry. This takes us to the next document which is copy of the sale-deed dated 16-2-1940 on a

stamp paper of Rs.1/-. Vide said sale-deed the grandfather of the petitioner namely Ramnath has purchased an immovable property viz. a house from one Ganu Suleman Musalman for an amount of Rs.91/-. The original of the document is claimed to have been destroyed in the century flood of 1991 which fact about flood is verified or not disputed by the vigilance cell.

13. The Committee has recorded that in the document produced on record, it can be noticed that there is overwriting in the name of grandfather of the petitioner.

14. We have perused the said document. We hardly see any doubtful over writing on entries in the said document particularly about the caste of the grandfather. The original of the said document is though lost, however, from the original record it can be inferred that on the backside of the said document serial number with stamp is recorded. Hence, we are of the view that for deciding the caste claim said document cannot be doubted.

15. As such, it cannot be said that the said document is a concocted or forged one in which entry of Pardeshi Bhamta was incorporated so as to facilitate and support the case of the petitioner as it can be inferred that the said document originally contains the caste 'Pardeshi Bhamta'.

16. We have no doubt in mind in accepting the said document in support of the caste claim of the petitioner.

17. Apart from above, the Committee has lost sight of the fact that the said document is thirty years old one and in such an eventuality, to discard the said document the burden shifts on the Committee.

18. Rather from the aforesaid observations, it has to be inferred that the petitioner has discharged the burden contemplated 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 thereby demonstrating from the record that, (a) in 1991 a century flood has washed away the entire Mowad village thereby causing loss to the public property including loss of lives in which the documents in question were lost, (b) the school record in relation to the admission of the petitioner of 1988 depicts entry of the caste as 'Pardeshi Bhamta', (c) the sale-deed executed in favour of the grandfather of the petitioner way back in 1940 in clear terms records an entry of Pardeshi Bhamta.

19. In that view of the matter, the order impugned dated 27-12-2017 passed by respondent No.1-District Caste Scrutiny Committee, Nagpur is hereby quashed and set aside. It is declared that the petitioner belongs to Pardeshi Bhamta caste. We direct the respondent-District Caste Scrutiny Committee, Nagpur to issue the Validity Certificate to the petitioner within a period of four weeks from the date of production of copy of this judgment.

20. The petition stands allowed in the above terms.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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