



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3299 OF 2022

Irtika Ameen Bhura,
Age 20 years, Occupation: Student,
R/o Nehru Nagar, Ward No.15,
Dharni, Tahsil Dharni,
District Amravati

} .. **Petitioner**

Versus

1. District Caste Scrutiny Committee,
Amravati, District Amravati, through
its chairman
2. Maharashtra University of Health
Science, Nasik, Dindori Road,
Mhasrul, Nasik through its Vice-
Chancellor.
3. Dr. Vedprakash Patil Ayurved Medical
& Research Institute, Revgaon, Jalna
through its Principal, Maharashtra.

} .. **Respondents**

Mr. Abdul Subhan, Advocate for the petitioner.

Mr. N.P.Mehta, Addl. G.P. for respondent No.1.

Mr. N.D.Thombre, Advocate for respondent No.2.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : **SEPTEMBER 09, 2024**

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally, with
the consent of the learned counsel appearing for the parties.

(2) The challenge is raised to the order dated 08/02/2022 passed by the respondent No.1 District Caste Scrutiny Committee, Amravati (hereinafter referred to as '*the Committee*'), thereby invalidating the claim of the petitioner that she belongs to "*Kachchi*" (कच्ची) Other Backward Class (OBC).

(3) On 16/01/2014, the Sub-Divisional Officer, Achalpur, issued a caste certificate in favour of the petitioner. The petitioner, through Principal Government Secondary Ashram School and Junior College, Susarda, Taluka Dharni, District Amravati, has submitted her caste certificate and relevant documents to the respondent No.1 Committee for verification. The Committee was dissatisfied with the document submitted by the petitioner and, therefore, forwarded the same to the Vigilance Cell for a detailed enquiry. The Vigilance Cell accordingly conducted a thorough enquiry and submitted its report to the Committee on 17/09/2021, observing that entry in the Kotwal Book pertains to the ancestors of the petitioner found in decrepit/torn condition; therefore, unable to verify the same and observed that the petitioner failed to prove the affinity test.

(4) As a sequel to the above, the petitioner was served with a show-cause notice calling upon her to explain the fact. Pursuant to the same, the petitioner submitted her explanation to the Committee and denied the observations made in the report. The Scrutiny

Committee, after considering the documents produced on record, Vigilance Cell report and explanation submitted by the petitioner, has held that the petitioner failed to prove that she belongs to "Kachchi" (कच्ची)(OBC) and invalidated her tribe claim, hence this petition.

(5) The learned Counsel for the petitioner vehemently contended that the petitioner, in support of her claim, produced a pre-Constitutional document for the year 1930 of her great-grandfather Haji Ismail, wherein his caste has been recorded as "Kachhi" (कच्ची) (OBC). However, the Committee discarded the said document on the grounds that the said record is found in decrepit/torn condition. The Vigilance Cell has not disputed the said entry but only observed that it is not legible. Therefore, the finding recorded by the committee appears contrary to the facts on record. He further canvassed that the petitioner has produced 17 other documents wherein her and her relative's caste has been recorded as 'Kacchi' Other Backward Class. However, the Committee has not considered those documents.

(6) He further propounded that the petitioner had produced four validity certificates issued in favour of her blood relatives, which included her real sister, real uncle, cousin brother, and cousin sister. Therefore, as per the mandate laid down in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others** reported in **2010(6) Mh.L.J. 401**, the petitioner is also entitled

to the validity certificate as claimed.

(7) Lastly, he argued that as per the Government Resolution dated 12/12/2023, "Kachi/Kachchi/Kachhi" (कची/कच्ची/कच्छी) entries are included at Sr.No.85, which itself shows that the entries recorded in the documents of the blood relatives of the petitioner are included in the OBC. Hence, he submitted that the impugned order passed by the Committee is contradictory to the dictum laid down by this Court and the Government Resolution. Therefore, the same is liable to be set aside.

(8) *Per contra*, Ms. Mehta, learned Additional Government Pleader appearing for respondent No.1 strenuously argued that "Kachi"(कची) and "Kachchi"(कच्ची) or "Kachhi"(कच्छी) are different castes and therefore, the petitioner failed to demonstrate that she belongs to "Kachchi" (कच्ची) (OBC). However, she submitted that in the Kotwal Book of Tahsildar, Achalpur, of the year 1930, the caste of her great-grandfather was mentioned as "Kachhi" (कच्छी) and, therefore, the same was not taken into consideration by the Committee in support of the petitioner's claim. Other documents produced by the petitioner are after the deemed date, i.e. 1967. Therefore, those documents are not helpful for the petitioner in support of her claim.

(9) She further contended that while issuing four validity certificates in favour of the blood relatives of the petitioner, no Vigilance Cell enquiry was conducted. Therefore, those certificates are not helpful in support of her claim. In support of her submissions, she has relied upon the judgments cited in the reply and urged for the dismissal of the petition.

(10) We have appreciated the submissions of the learned Counsel for both parties. Perused the impugned order, record, and the Government Resolution dated 12/12/2023.

(11) It reveals that by filing a reply, respondent No.1 has categorically stated that during the vigilance enquiry, the Vigilance Cell found entry of 1930 as "Kachhi" (कच्छी) in Kotwal Book maintained by Tahsil office, Achalpur, pertains to great-grandfather of the petitioner, but only mentioned that the same has been recorded as "Kachhi" (कच्छी), hence could not be relied upon. In this regard, we would like to refer to the Government Resolution dated 12/12/2023, which was issued after the passing of the order, wherein the Government of Maharashtra has included "Kachi/Kachchi/Kachhi" (कची / कच्ची / कच्छी) in the OBC list at Sr.No.85. Thus, it is evident that the petitioner's great-grandfather belongs to "Kachhi" (कच्छी) (OBC); on that ground alone, the impugned order is not sustainable in the eyes of the law. As

a result, it seems that by virtue of the said Government Resolution, all entries in the documents produced by the petitioner have the status of OBC.

(12) On perusal of the documents produced on record, it appears that the petitioner, to substantiate her claim, has produced 19 documents on record, out of which one document is of 1930 and pertains to her great-grandfather Haji Ismail, wherein his caste was recorded as "*Kachhi*" (कच्ची). It is to be noted that neither Vigilance Cell nor the respondent has denied or disputed the said entry but only raised the objection that it was found in decrepit/torn condition and, therefore, said entry could not be relied upon. However, by filing a reply, respondent No.1 averred that the "*Kachi*" (कची) entry was found in the Vigilance Cell during the enquiry. Thus, it is evident that the petitioner's grandfather belongs to the "*Kachhi*" (कच्ची) (OBC) caste. In other documents, the caste of the petitioner or her relatives have been recorded as "*Kachi/Kachhi*" (कची/कच्ची) and those entries are now included in the Government Resolution dated 12/12/2023; therefore, all these documents demonstrate that the petitioner and her relatives belong to "***Kachi***"(कची) (OBC). Thus, the Committee's observations in that regard appear contrary to the facts on record.

(13) Apart from the above, the petitioner, in support of her claim, has produced four validity certificates issued by the Committee in favour of her real sister, real uncle, cousin brother and cousin sister. However, the Committee has discarded the said certificates on the grounds that no Vigilance Cell enquiry was conducted while issuing them. In fact, it is not the plea of the Committee that the same were obtained by fraud and therefore, in our view, as per the ratio laid down in the case of **Apoorva Nichle** (supra), the respondent Committee ought not to have rejected the claim of the petitioner without assigning any cogent reason, but it was incumbent on the respondent Committee to issue validity certificate in favour of the petitioner in absence of showing fraud played by her relatives while obtaining the same. Therefore, findings recorded by the Committee in that regard appear contrary to the mandate laid down in the case of **Apoorva Nichle** (supra).

(14) Having regard to the above discussion and documents on record, it reveals that the petitioner, in support of her claim, has relied upon the pre-Constitutional era document of 1930 pertains to her great-grandfather, wherein his caste has been recorded as "Kachhi"(कच्छी), the said document is the oldest one and having greater probative value. In addition, the petitioner has produced four caste validity certificates issued in favour of her blood relatives, and therefore, as per the law laid down in the case of **Apoorva**

Nichle(supra), the petitioner's claim ought not to have been rejected, and the same status shall be awarded to her. Apart from this, as per the Government Resolution dated 12/12/2023, "Kachi/Kachchi/Kachhi" (कची/कच्ची/कच्छी) have been included in the OBC list at Sr.No.85. *Consequently*, the petitioner is also entitled to claim the validity certificate.

(15) In the light of the above discussion, we do not find substance in the objections raised by the respondent Committee in that regard, as well as authorities relied upon by the Committee to support their contention. In the aforesaid background, we deem it appropriate to allow the petition.

(16) The writ petition is allowed. The impugned order dated 08/02/2022 passed by the respondent No.1 Committee is hereby quashed and set aside. It is declared that the petitioner belongs to the "Kachi" (कची) (OBC) caste. The Committee is directed to issue a validity certificate in her favour within a period of four weeks from the receipt of the copy of this judgment.

(17) Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]