



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

WRIT PETITION NO. 7297 OF 2022

Pragati D/o Shankarrao Jagtap,
 aged about 28 years,
 Occupation: Service,
 R/o Kalgaon, Post Mahagaon,
 Tah.Mahagaon, Dist. Yavatmal.



.. Petitioner

Versus

1. The District Caste Certificate Scrutiny Committee, Yavatmal, through its chairman
2. The Zilla Parishad, Parbhani, through its Chief Executive Officer.
3. The Education Officer (Primary), Zilla Parishad, Parbhani, Tah and Dist. Parbhani



.. Respondents

WRIT PETITION NO. 1693 OF 2023

Ku.Pratiksha D/o Shankarrao Jagtap,
 aged about 24 years,
 Occupation: Student,
 R/o Kalgaon, Tah.Mahagaon,
 Dist. Yavatmal



.. Petitioner

Versus

The District Caste Certificate Scrutiny Committee, Yavatmal, through its Chairman



.. Respondent

WRIT PETITION NO. 2633 OF 2023

Nishant S/o Suryabhan Jagtap
aged about 19 years,
Occupation: Student,
R/o Kalgaon, Tah.Mahagaon,
Dist. Yavatmal



.. Petitioner

Versus

1. The District Caste Certificate
Scrutiny Committee, Yavatmal,
through its Chairman
2. Agnihotri Institute of Pharmacy
Bapuji Wadi, Sindi (Meghe),
Wardha - 442 001 through its
Principal



.. Respondents

WRIT PETITION NO. 2638 OF 2023

Ku.Samiksha D/o Shankarrao Jagtap
aged about 22 years,
Occupation : Student,
R/o Kalgaon, Tah.Mahagaon,
Dist. Yavatmal



.. Petitioner

Versus

1. The District Caste Certificate
Scrutiny Committee, Yavatmal,
through its Chairman
2. The Sudhakar Rao Naik Institute of
Pharmacy, Nagpur Road, Pusad,
through its Principal



.. Respondents

WRIT PETITION NO. 3040 OF 2023

Ku. Suraksha D/o Suryabhan Jagtap
aged about 22 years,
Occupation : Student,
R/o Kalgaon, Tah.Mahagaon,
Dist. Yavatmal

} .. **Petitioner**

Versus

1. The District Caste Certificate
Scrutiny Committee, Yavatmal,
through its Chairman
 2. The Balwantrao Chavan College of
Pharmacy (B.Pharm) Naigaon (Bz),
Tq. Naigaon (Kh.), Dist.Nanded
(M.S.)- 431709, through its Principal
- } .. **Respondents**

Mr. A.B. Patil, Advocate for Petitioners.

Mr. A. M. Kadukar, Assistant Government Pleader for respondent/
State.

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

RESERVED ON : 19/07/2024

PRONOUNCED ON : 30/08/2024

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

Rule. Heard finally, by consent of the learned counsel
appearing for the parties.

(2) The petitioners are aggrieved by the common impugned order passed by the respondent District Caste Certificate Scrutiny Committee, Yavatmal (for short '*the Committee*') whereby the claim of the petitioner Pragati (in Writ Petition No.7297/2022) that she belongs to "*Kunbi*" (Other Backward Class) has been invalidated, as well as the Validity Certificates granted in favour of other petitioners in connected petitions were cancelled and forfeited by the said Committee.

(3) The petitioners are in blood relations, and by a common order, the claims of the petitioners came to be negated. As such, all these writ petitions are disposed of by this common judgment, with the consent of the parties.

(4) The petitioner, Pragati, obtained a caste certificate from the Sub Divisional Officer, Yavatmal, on 17/12/2015 that she belongs to "*Kunbi*" (Other Backward Class). After that, she submitted her caste certificate along with the documents before the Committee for verification. The committee was dissatisfied with the documents submitted by her. Hence, it was forwarded to the Vigilance Cell for a detailed enquiry. The Vigilance Cell has conducted the enquiry. During the enquiry, the Vigilance Cell found adverse entries of the years 1953 and 1956 pertain to the ancestors of the petitioner Pragati, wherein their caste is recorded as "**Marathi/Maratha**", and accordingly, the Vigilance Cell submitted its report to the Committee.

(5) The Committee, after considering the Vigilance Cell report and Validity Certificates of blood relatives of the petitioner Pragati, called upon them to explain the adverse entries found during the Vigilance Cell enquiry against their claims. The Vigilance Cell also issued show-cause notices to the petitioners in connected petitions as to why the Validity Certificates granted in their favour should not be cancelled. They also called upon them to submit an explanation about the adverse entries found during the Vigilance Cell enquiry. After considering the Vigilance Cell report, documents on record and explanation submitted by the petitioners, the respondent Committee vide impugned order rejected the tribe claim of the petitioner Pragati, as well as cancelled and forfeited the Validity Certificates issued in favour of other petitioners in connected petitions. Hence, these petitions.

(6) Mr. Amol Patil, learned Counsel for the petitioners, vehemently contended that the Committee has not considered the documents pertaining to their paternal aunt and uncle of the years 1953 and 1956, wherein their caste is recorded as "*Kunbi*" Other Backward Class (for short-'*OBC*'). However, the Committee has erred in recording the reasons that petitioners failed to prove their relationship with them. Therefore, they have discarded these documents; the said finding appears contrary to the material on record. Hence, he submitted that the said finding is liable to be set aside.

(7) He further propounded that the petitioner Pragati had submitted four Validity Certificates of her blood relatives; however, the Committee erred in cancelling and forfeiting their Validity Certificates. The Committee has no right to recall/cancel the Validity Certificates granted without the finding that they have committed fraud while obtaining the same. Therefore, he submitted that the passing of the order by the Committee is contrary to the settled provisions of law.

(8) To buttress his submissions, he has relied upon the judgment in the cases of ***Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others*** reported in **2010(6) Mh.L.J. 401** and ***Anil s/o Shivram Bandawar vs. District Caste Certificate Verification Committee, Gadchiroli and another*** reported in **2021(5) Mh.L.J.345** and argued that the Vigilance Cell was not empowered to recall and cancel the validity certificates granted in favour of the blood relatives of the petitioner Pragati in absence of the finding that they have played fraud while obtaining the same. Therefore, he urges that the impugned order is liable to be set aside and prayed for the grant of validity certificates in favour of the petitioners.

(9) As against this, learned Assistant Government Pleader strenuously argued that during the Vigilance Cell enquiry, they found an extract of the School Admission Register pertains to Shankarrao

Namdeo Jagtap, i.e. father of the petitioner Pragati, aunt – Gokarna and uncle – Shivaji Namdeo Aakhadkar. Those documents are from the years 03/07/1965, 07/07/1963, and 23/03/1965. In these documents, their dates of birth were mentioned as 01/07/1959, 25/02/1953 and 14/02/1956, respectively. In these three documents, their caste was recorded as "**Marathi/Maratha** (Hindu)". Those three documents are the oldest documents and have high probative value, which was not before the respondent Committee while issuing Validity Certificates in favour of the blood relatives of the petitioners. He further canvassed that the documents produced by the petitioner Pragati of her relatives before the Committee the copies of the birth extract register of the years 1953 and 1956, wherein it is mentioned that the son was born to Namdeo Bhagaji (Kunbi) on 14/02/1956 and the name of the son was mentioned as Bhaurao. Likewise, the birth extract register from 1950 to 1957, wherein it is shown that one daughter was born to Namdeo Bhagaji (Kunbi) on 25/02/1953 and in the said entry, the name of the daughter was mentioned as Radha; however, both the documents of the village Kosadani and names of Radha and Bhaurao are not mentioned in the family tree of the petitioner. Therefore, it cannot be said that those were the relatives of the petitioners. Hence, he submitted that the Committee had rightly discarded those documents and that the Validity was granted in favour of the other petitioners based on the said documents. Thus, the finding given by the

Committee is just, legal, and proper, and no interference is required in the impugned order.

(10) We have appreciated the rival submissions and perused the record, as well as the judgment relied upon by the learned Counsel for the petitioners.

(11) At the outset, it seems that the petitioners and the Caste Scrutiny Committee relied upon the entries dated 25/02/1953 and 14/02/1956, wherein it is recorded that the son and daughter were born to Namdeo Bhagaji. In order to substantiate the claim, the petitioners are relying on the copy of birth extract entries of the village Kosadni from 1950 to 1957. The said entries denote that a daughter named Radha and one son named Bhaurao were born to Namdeo Bhagaji on 25/02/1953 and 14/02/1956. However, in the family tree, the names of Bhaurao and Radha are not shown as the relatives of the petitioner. While explaining the said discrepancy, the petitioner vaguely averred that Kosadani is their paternal uncle's house; therefore, an entry in that regard was recorded as Bhaurao. Thus, while taking the entries, they mentioned the name of 'Shivaji' as 'Bhaurao' and 'Gokarna' as 'Radha'. In fact, the Gokarna and Radha are one and the same; likewise, 'Bhaurao' and 'Shivaji' are one and the same. Therefore, they claim that those documents are the oldest and that discarding the said documents by the Committee is contrary to the

facts on record.

(12) It is pertinent to note that the Vigilance Cell, as well as the Committee, is relying on the extract of the School Admission Register pertaining to the father of the petitioner Pragati, as well as paternal aunt and uncle, namely Gokarna and Shivaji. In all three documents, their caste was recorded as "**Maratha (Hindu)/Marathi**". All three documents are from the village of Kalgaon. In all three documents, the dates of birth of the petitioner's father, Aunt – Gokarna, and Uncle Shivaji are shown as 01/07/1959, 25/02/1953, and 14/02/1956, respectively. The petitioners are not disputing these documents; however, they failed to explain the entry about their caste as mentioned in these documents. Moreover, the petitioners failed to produce any document to show that they are/were residents of Kosadani or have any concerns with the Kosadani village except for their vague explanation.

(13) It further appears that while the Validity Certificates were issued in favour of the blood relatives of the petitioner Pragati, the extracts of the School Admission Register of the petitioner's father, uncle, and aunt were not produced before the Committee. The petitioners are relying on the entries dated 25/02/1953 and 14/02/1956. Likewise, the Committee and Vigilance Cell also relied on

the said documents, i.e., the School Admission Register extract. There is no dispute about the names mentioned therein. Moreover, the names of paternal Aunt and uncle Gokarna and Shivaji are mentioned in the family tree. The petitioners are not disputing their relationship with Aunt Gokarna and Uncle Shivaji. *Per contra*, the documents produced by the petitioners do not denote that one Bhaurao and Radha were born to Namdeo Bhagaji (Kunbi) of the village Kosadani. However, the petitioners failed to demonstrate that Bhaurao and Shivaji, likewise, Gokarna and Radha, are one and the same or that they are/were the residents of Kosadani village.

(14) It further reveals that after the discovery of the extracts of the School Admission Register by the Vigilance Cell, the Committee called upon the petitioners to explain the said discrepancy, to which they failed to explain the same. The petitioners have not denied or disputed the said documents and entries made therein. But they only claimed that Radha and Gokarna are one and the same, as well as Shivaji and Bhaurao are one and the same. Therefore, after considering the same, the Committee has rejected the claim of the petitioner Pragati and cancelled and forfeited the Validity Certificates granted in favour of the other petitioners. Thus, the finding in that respect appears contrary to the dictum laid down by this Court, as well as the Apex Court that the Committee has not been empowered to recall and

forfeit the validity certificates granted in favour of the petitioners in the absence of the allegation of fraud committed by them. However, without recording the reasons that the petitioners in connected petitions had played fraud upon them while obtaining the Validity Certificates, the Committee cancelled and forfeited their Validity Certificates. Considering the above discussion, the findings given by the Committee in the case of Pragati and the documents on record, we are of the opinion that it would be proper to reconsider all the matters by the Committee after verifying the documents on record and giving an opportunity to the petitioners.

(15) Having considered the discussion above, discrepancies appear in the documents produced by the petitioners and those discovered by the Vigilance Cell during the enquiry; the entries in both the documents are the same. However, in one document, the caste of the ancestors of the petitioners is recorded as "**Maratha (Hindu) / Marathi**"; however, in other documents, it is mentioned as "*Kunbi*". None of the petitioners have disputed the extract of the School Admission Register nor disputed the caste of their father, uncle and aunt recorded therein. Besides, the findings of the Committee, without recording fraud committed by the co-petitioners, cancelled and forfeited their Validity Certificates contrary to the mandate of the Apex Court.

(16) Thus, in our view, the dictum laid down in the case of **Apoorva Nichale** (cited supra) is hardly any assistance to the petitioners in support of their claim; however, as per the dictum laid down in the case of **Anil Bandawar** (cited supra), it was not permissible for the Committee to have re-examined the Caste Validity Certificates issued in favour of the petitioners in connected matters on the vague ground as stated in the show cause notices. Consequently, in our view, the Committee committed jurisdictional errors in passing the impugned order. The Committee had no jurisdiction in law to do so. As a result, in our opinion, it Would be just and proper to set aside the impugned order passed by the Committee about cancellation and forfeiture of the 'Validity Certificates' issued in favour of the petitioners in connected petitions.

(17) Furthermore, this Court cannot ignore the discovery of the documents by the Vigilance Cell, which the petitioners did not dispute. Those documents prima facie denote the oldest adverse entries to the petitioners' claim. Therefore, to resolve the said controversy, we deem it appropriate to remit all the matters to the Committee for reconsideration with directions to conduct a thorough enquiry into the matters by offering an opportunity to the petitioners to substantiate their claim by explaining the adverse entries discovered by the Vigilance Cell. In the background above, we deem it appropriate to

quash and set aside the Validity Certificates granted in favour of the petitioners in connected petitions and remitted all the matters to the Committee for consideration afresh. As such, we pass the following order :-

ORDER

- 1.** The common impugned order dated 01/11/2022 passed by the Committee is hereby quashed and set aside.
- 2.** As a sequel of the above, the Validity Certificates issued in favour of the petitioners in Writ Petition Nos.7297/2022, 1693/2023, 2633/2023, 2638/2023, 3040/2023 by the then Committee have been cancelled and forfeited.
- 3.** All the matters are remitted back to the respondent Committee for consideration afresh in accordance with law.
- 4.** The petitioners are directed to appear before the Committee on 09/09/2024. The Committee is directed to decide their respective claims within a period of three months from the date of appearance of the parties.
- 5.** Rule is made absolute in the above terms. No order as to costs.

[Abhay J. Mantri, J.]

[Nitin W. Sambre, J.]