

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

Writ Petition No.6493 of 2017

[Shameem Bano Abdul Sayeed **VERSUS** The State of Maharashtra and
another]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's order
Registrar's orders.

Shri C.A. Babrekar, Counsel for Petitioner.

Shri S.M. Ghodeswar, Assistant Government Pleader for Respondent
Nos.1 and 3.

CORAM : NITIN W. SAMBRE AND VRUSHALI V. JOSHI, JJ.

DATE : JANUARY 02, 2025

1. The challenge raised in this petition is to the order dated June 06, 2017 passed by the respondent No.3-The District Caste Certificate Scrutiny Committee, Amravati, whereby the claim of the petitioner for issuance of validity certificate as belonging to 'Chhaparband' caste came to be rejected.

2. The submissions of Shri Babrekar, learned counsel appearing for the petitioner are, the oldest entry of 1920 in relation to a son born to Maybusha on October 10, 1920 is not appropriately considered. The learned counsel would claim that earlier there was a mandate that in case the caste entries in relation to 'Fakir' or 'Shah' are noticed, the same need to be evaluated so as to find out whether such entries are in relation to 'Chhaparband' caste. According to him, even if the Resolution issued on March 23, 2011 by the State Government to that effect is withdrawn by another Government Resolution of 2015, still the Committee is required to apply its mind to the material available on record.

3. As against above, Shri Ghodeswar, learned Assistant Government Pleader appearing for the respondent Nos.1 and 3, would invite our attention to the Government Resolution dated February 16, 2015 so as to

claim that the earlier Government Resolution dated March 23, 2011 was already cancelled and that being so, the petitioner cannot be extended the benefits of entries of 1920 of 'Musalman Fakir'.

4. We have considered the submissions made by the learned counsel appearing for the parties.

5. 'Musalman' is a religion, is not a fact in dispute that can be borne out from the record. Similarly, 'Fakir' is an independent entry in Other Backward Class Category at Serial No.335, which is also taken into account.

6. However, from the record, it depicts that the entry of 1920 in relation to a son being born to Maybusha is admitted one. Same document is holding the field prior to November 21, 1961, i.e. the date on which 'Chhaparband' was recognized as Vimukta Jati-A Category.

7. The entry in the Kotwal book in relation to a son born to Maybusha speaks of 'Musalman Fakir'. We have already noticed that 'Musalman'/'Muslim' is a religion and not a caste. In such an eventuality, the impact of such entry of 'Musalman Fakir' ought to be analysed by the respondent-Committee in the wake of such document being in existence in 1961. The Vigilance Cell enquiry in the matter conducted on November 29, 2011 supports the case of the petitioner.

8. Apart from above, relation of Mayubsha with that of the petitioner must be established by the petitioner by discharging the burden 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.

9. In this view of the matter, we deem it appropriate to quash and set aside the impugned order dated June 06, 2017 passed by the

respondent-Committee. Accordingly, the impugned order is hereby quashed and set aside.

We direct the petitioner to appear before the respondent-Committee on February 03, 2025.

The Committee is directed to evaluate the claim of the petitioner afresh, if so required, by referring the matter to the Vigilance Cell.

Let the decision be communicated to the petitioner once the evaluation to that effect is completed, in the light of the aforesaid observations.

10. The petition stands partly allowed. No costs.

(VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)