

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

WRIT PETITION NO.4459 OF 2012

Anita Chandrakant Tayade,
Age 34 years, Occ. Household,
R/o Sambhaji Nagar, Pawarwadi,
Chalisgaon, Tq. Chalisgaon,
District Jalgaon.

... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai

(Copy to be served on the
Govt. Pleader, High Court of
Judicature at Bombay,
Bench at Aurangabad)

2. Divisional Committee for Verification
of Caste Certificates, Nashik No.1
Central Administrative Building,
Revenue Commissioner,
Nashik Road, Nashik,
through its Member Secretary
3. Sub-Divisional Officer,
Pachora, Taluka Pachora,
District Jalgaon.

4. Vijayshree Anil Jadhav,
Age 37 years, Occ. Household,
R/o Kaivalya Nagar, Plot No.78,
Hirapur Road, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

... RESPONDENTS

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Shri G.V. Wani, Advocate for petitioner

Shri G.R. Ingole, A.G.P. for respondent Nos.1 to 3

Shri M.S. Deshmukh, Advocate for respondent No.4.

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CORAM: R.M. BORDE AND
U.D. SALVI, JJ.

DATED: 30th November, 2012.

ORAL JUDGMENT (Per R.M. Borde, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

2. The petitioner is challenging the validation certificate issued in favour of respondent No.4 by the Divisional Caste Scrutiny Committee, Nashik Division, Nashik, certifying that the respondent No.4 belongs to Kunbi caste, which is included in Other Backward Class category. According to petitioner, the record produced by respondent No.4 before the Scrutiny Committee indicates that she belongs to Maratha caste and that there is no convincing evidence to support the claim of her belonging to Kunbi caste, which is included in Other Backward Class category. The petitioner also contends that the Sub-Divisional Officer ought not to have issued a certificate certifying that the respondent No.4 belongs to Kunbi caste based upon the documentary evidence in the form of school leaving certificate of her husband and the

affidavit of the respondent No.4's husband. The petitioner also prays for cancellation of the certificate issued in favour of respondent No.4.

3. In order to verify the contentions raised by the petitioner, we directed the Scrutiny Committee to produce original record before us. On perusal of the original record, it transpires that the Scrutiny Committee has not recorded reasons in support of the order of issuance of validation certificate in favour of respondent No.4. It is necessary for the Scrutiny Committee to record reasons in support of the decision of issuance of caste validation certificate. Since no reasons are recorded, the decision taken by the Scrutiny Committee of issuing validation certificate in favour of respondent No.4 is not sustainable. Apart from this aspect, on perusal of record, it is evident that the documentary evidence placed on record in the form of school leaving certificate of respondent No.4 as well as that of her husband record contrary entries in respect of caste. The school leaving certificate issued in favour of respondent No.4 discloses her caste as Hindu Deshmukh whereas the school record of her husband discloses his caste as Hindu Maratha. The school leaving certificate issued in favour of father of respondent No.4 also records entry in respect of caste as Hindu Maratha. There is an old document in the form of school leaving certificate of one Rambhau Bhaurao Patil, who is stated to be grandfather of husband of respondent No.4 and the said document records entry in respect of his caste as Kunbi. It is to be noted that the grandfather of the husband of respondent No.4

cannot be considered to be a blood relation of respondent No.4.

4. On perusal of the original record, we have not come across any substantial evidence having been placed on record by respondent No.4 in support of her caste claim. As recorded above, since the scrutiny committee has not recorded reasons in support of the decision of issuance of a validation certificate in favour of respondent No.4, it would be in the fitness of things to remit the matter back to the scrutiny committee. Although there are no specific rules requiring the scrutiny committee to direct holding Vigilance Cell enquiry while investigating into caste status of an O.B.C. category candidate, considering the fact that there is contra documentary evidence placed on record, it would be appropriate for the scrutiny committee to direct Vigilance Cell enquiry in the matter. The scrutiny committee, on consideration of the report of Vigilance Cell and after extending opportunity of hearing to respondent No.4 to substantiate her claim, shall proceed to render decision afresh in the matter. The scrutiny committee is also obliged to record reasons in support of the order.

5. For the reasons recorded above, the impugned validation certificate dated 20.10.2006 issued by respondent No.2 in favour of respondent No.4 is quashed and set aside and the matter is remitted back to the Scrutiny Committee for reconsideration. The Scrutiny Committee is directed to reconsider the claim of respondent No.4 afresh after extending opportunity of hearing to the petitioner as well as to respondent No.4. It would be

open for the respondent No.4 to place documentary and other evidence before the Scrutiny Committee to substantiate her caste claim. It would also be open for the Scrutiny Committee to pass appropriate orders in respect of the objection raised by the petitioner herein regarding issuance of caste certificate by the Sub-Divisional Officer, Pachora Division, Pachora in favour of respondent No.4. The Scrutiny Committee shall render decision afresh as expeditiously as possible, preferably within four months from today. The respondent No.4 as well as the petitioner shall cause appearance before the Scrutiny Committee on 17th December 2012. As such, no separate notice requiring their presence before the Scrutiny Committee shall be necessary. Until the decision by the Scrutiny Committee in respect of claim of validation of respondent No.4, no adverse action shall be taken against respondent No.4 only on account of her failure to submit validation certificate. Rule is made absolute accordingly. There shall be no order as to costs.

(U.D. SALVI, J.)

(R.M. BORDE, J.)