
(2018) 07 BOM CK 0046
In the Bombay High Court
Case No : Writ Petition No.6718 of 2017

Amruta D/O Arvind Dadmal	Vs	APPELLANT
Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur Thr. Chairman/Joint Secretary		RESPONDENT

Date of Decision : 02-07-2018

Acts Referred:

Criminal Procedure Code, 1973 — Section 195, 340
Indian Penal Code, 1860 — Section 192, 193

Citation : (2018) 07 BOM CK 0046

Hon'ble Judges : R.K. DESHPANDE, J; ARUN D. UPADHYE, J

Bench : Division Bench

Advocate : Preeti D. Rane, Sangita S. Jachak

Final Decision : Disposed Off

Judgement

R.K. Deshpande, J

1. Rule, made returnable forthwith.Â Heard finally by consent of the learned counsels appearing for the parties.

2. This petition seeks direction to the Scheduled Tribes Caste Scrutiny Committee, Nagpur, to decide the caste claim of the petitioner within a stipulated period.Â The claim of the petitioner for verification of her claim for 'Mana Scheduled Tribe' was forwarded to the Committee on 7Â1Â?

2016 because the petitioner was desirous of getting admission to the MBBS Course during the Academic Session 2016Â17 as a candidate belonging to Scheduled Tribe category.Â The petitioner appeared for the NEET Examination and cleared it, but for want of validity certificate, she could not get the admission during the said Academic Session.

3. The present petition was filed on 10Â10Â2017.Â Notice was issued by this

Court on 11¹⁰2017, and the respondent Committee filed its affidavit on 2¹¹2017. In para 6 of the said affidavit, the Committee undertook to decide the claim of the petitioner within a period of four months, i.e. by the end of March, 2018. It was expected that before the admissions to the MBBS Course commenced for the Session 2017¹⁸, the Committee would finally decide the claim of the petitioner.

4. On 13⁶2018 when the matter was listed before this Court, Ms Jachak, the learned Assistant Government Pleader, invited our attention to the communication dated 21³2018, said to have been issued by the Police Vigilance Cell, asking the petitioner to furnish certain information and documents. The stand taken by the learned AGP is that the petitioner has not till this date submitted any such documents. The petitioner cleared the NEET Examination on 4⁶2018 and she has to appear for the rounds for admission to the First Year MBBS Course for the Session 2018¹⁹, but now she is likely to lose her admission on account of the Committee failing to decide the matter within a stipulated period, in spite of assurance to this Court.

5. We passed an order on 13⁶2018 expressing surprise over the communication dated 21³2018 by which the petitioner was called upon to produce certain documents. We expressed that if the petitioner failed to produce the documents, this could have been informed to her at least in the reply dated 2¹¹2017 so that the claim could have been decided prior to March, 2018, as was assured or the Committee could have proceeded further to decide the claim of the petitioner in the absence of such documents. If the petitioner was not co-operating with the Committee or that the petitioner is not producing the documents, this could have been pointed out to this Court well in advance. Such was not the stand taken by the Committee. But it is only after the matter was adjourned by this Court, the Committee produced a letter dated 21³2018 making a show that the petitioner is at fault and not the Committee. This we found to be afterthought and not genuine. Be that as it may, we directed the petitioner to appear before the Committee and the Committee was directed to decide the matter within a period of ten days.

6. Thereafter also, we were surprised to note that though the Committee passed an order on 22⁶2018, i.e. on Friday, the Committee did not choose

to communicate this order to the petitioner on the same day or to inform the petitioner that the order was passed invalidating her caste claim.Â We,

therefore, passed an order on 25Â?6Â?2018 imposing the costs of Rs.10,000/ upon the members of the Committee to be paid to the petitioner.

7. In view of above, the grievance in this petition does not survive and before we dispose of this petition, we would like to make certain observations.

8. The Caste Scrutiny Committee is a quasi-judicial body and the members of it are to be held in high esteem.Â They are supposed to be fair,

impartial, unbiased and sensitive to the claims of scrutiny and verification of the caste or tribe, as the entire career of the persons in the employment or

the students in the education from the backward class category for concessions and benefits depends.Â The duty of the Committee is to see that the

genuine and bona fide claimants are not deprived of their claims and the bogus claimants are eliminated.

9. The procedure for grant of validity certificate is governed by the provisions of Maharashtra Scheduled Castes, Scheduled Tribes, DeÂnotified

Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of)

Caste Certificate Act, 2000 and the Rules framed thereunder.Â The Committee is expected to uniformly follow the procedure and record the findings

on appreciation of evidence. All the documents produced by the claimants and secured through the Police Vigilance Cell are required to be considered

as a matter of rule to record the findings one way or the other.Â The claims are required to be decided as far as possible within a period stipulated

period, giving preference to the claims of the students securing admissions in Educational Institutions against the seats meant for the candidates

belonging to the reserved category.

10. Normally, a quasi-judicial authority is not supposed to be a contesting party to any litigation and if the orders are wrong or mistakes are committed,

the same shall be corrected, without any occasion to pass any strictures.Â However, over the years, we have come across hundreds of cases

challenging the orders of the Scrutiny Committee, and we are pained to note the reprehensible conduct of the members of the Committee and the

entire establishment.Â The orders are passed in a mechanical manner showing scant respect to the ratio of the decisions of the Apex Court or the

High Court.Â The attitude of the Committee is very hostile and biased towards the claimants.Â There is no sensitivity to the problems.Â In many reported and unreported judgments of this

Court, strictures were passed against the members of the Committee and at times, notices of contempt were issued, and accepting apology, the proceedings were dropped.Â Many times, the members of the Committee are directed to pay the costs, even from their personal pocket, but we fail to notice any change in the approach of the Scrutiny Committee.

11. In the decision of the Division Bench of this Court (S.C. Dharmadhikari and Ravindra V. Ghuge, JJ.) in the case of Kumari Sweta Suresh Thakur v. State of Maharashtra and Ors., reported in 2014 (3) ABR 92, it was held in para 22 as under :

â??22. In the instant case, we do not find any such conclusion, having been arrived at by the Committee in the impugned order.Â It is equally noteworthy that this Court had granted validity of the Tribe Claim to the father of the petitioner, real uncle and her real aunt.Â These judgments delivered by this Court, validating the claims of close blood relatives of the petitioner, could not have been overlooked and brushed aside by the Committee.Â While we find some discussion in the impugned report, traceable to our judgments upholding the claims of the petitioner's close blood relatives, we do not find any discussion, much less proper reasoning as to why the Committee did not deem it fit and proper to understand the judgments in proper perspective and the reasons adduced by this Court in granting validity certificates to the 3 close blood relatives of the petitioner.Â Instead of embarking on this exercise, the committee has devoted a major part of its impugned report in reciting paragraph after paragraph of several judgments of the Hon'ble Apex Court and this Court in order to draw a conclusion against the claim of the petitioner.â??

12. In the case of Dinesh s/o Narayanrao Nandanwar v. State of Maharashtra and others, reported in 2014(4) Mh.L.J. 198, the Division Bench of this Court (B.R. Gavai and C.V. Bhadang, JJ.), it is observed in paras 7 and 8 as under :

Â â??7. We are constrained to state that the respondent Scrutiny Committee in spite of taking pride in calling itself a quasiÂjudicial authority, on various occasions does not perform the duties which are associated with

authority exercising quasi judicial authority.Â On various occasions, we find that in spite of various judgments of this Court and the Apex Court, the Scrutiny Committee rejects the claim on the grounds not permissible in law.Â

The present case is one of the classic examples of the same.â??

â??8. The Apex Court in the case of Anand (cited supra) has in clear terms held that a due weightage has to be given to the preÂconstitutional

documents.Â It has been held that with the passage of time, it may not be possible for a candidate to know the traits of the original tribe to which he

belongs.Â In that view of the matter, it has been held that the preÂconstitutional documents should be given due consideration while considering the

claim of a candidate.â??

At the end of para 11, this Court has observed as under :

â??11. â? In the entire judgment of the Scrutiny Committee, there is no even a whisper regarding the judgment delivered by this Court.Â We could

have taken a serious view of the matter. However, we leave at this stage by warning the Committee that if hereinafter we come across any such

instance, we will be constrained to take a serious view of the matter and take appropriate steps in accordance with law.â??

13. In the decision of the Division Bench of this Court (Anoop V. Mohta and M.S. Sonak, JJ.) in the case of Devram Laxman Bhoir v. State of

Maharashtra and others, reported in 2014(4) Mh.L.J. 626, it is observed in paras 15 and 20 as under :

â??15. In case of fraud and/or misrepresentation more detailed inquiry and scrutiny is necessary.Â Mere averments of fraud and/or

misrepresentation itself are not sufficient.Â One who alleges fraud and/or misrepresentation, including the complainant, required to place on record

the supporting materials to justify their defence/objection.Â In case, the fraud or misrepresentation is detected and/or proved, section 10 contemplates

specific provisions which required to be followed by the concerned.Â They are under obligation and duties to pass reasoned order within the

framework of law and record and the judgments so declared from time to time, apart from above basic principles.Â They are also under obligation to

finalize the inquiry/report, as early as possible to conclude the caste claim to avoid further complications and/or delay in the matter.â??

â??20. The caste claim once decided has its own impact not only upon the

generation, but the future generation also, the decision therefore, cannot be taken lightly specifically when material are placed on record to justify the case of misrepresentation/fabrication of record.Â In the present case, though the Scrutiny Committee by the decision dated 4 March, 2013, referred to its earlier order granting caste validity certificate, mentioned that the school records are manipulated, but decided the caste claim in favour of Respondent No.4, and thereby justified its earlier unreasoned order.Â The case falls within the ambit of the doctrine of â??suppressio veriâ? and â??suggestio falsiâ?.Â The reasons so given by the Scrutiny Committee in various orders are selfÂ?contradictory and self destructive and, therefore, unsustainable in law.â??

14. In the decision of the Division Bench of this Court (B.P. Dharmadhikari and Mrs. Swapna Joshi, JJ.) in the case of Sanjay Bhaskar Raimulkar v.

State of Maharashtra and others, reported in 2017(3) Mh.L.J. 557, it is observed in paras 45, 46 and 47 as under :

â??45. In present case, after conclusion of hearing, three Committee members should have in a meeting, exchanged and shared their views.Â They

ought to have discussed their thoughts together to find out whether they were all together. They should have attempted to iron out their differences

and to reach a unilateral verdict.Â Being responsible Officers on a quasi judicial body undertaking caste adjudication, a mature approach was must.Â

The documents presented before us as order of majority dated 31Â12Â2015 or as dissenting order dated 31Â12Â2015, do not qualify as â??ordersâ?

of the Scrutiny Committee.Â The entire exercise of threeÂmembers of Committee, after closing the caste claim for orders on 31Â12Â2015, amounts

to a fraud on adjudication and is unsustainable.Â We, accordingly, quash and set aside the so called impugned order dated 31Â12Â2015 and restore

proceedings back to the file of respondent No.2.â??

â??46. This Court will be failing in its duty if action under section 195 with section 340 Criminal Procedure Code, is not taken against the threeÂ?

members who have signed the order dated 31Â12Â2015.Â Prima facie, an offence u/ss. Sections 192 and 193 Indian Penal Code committed by

them, is demonstrated on records.â??

â??47. Issue notice to these members to show cause, returnable on 24Â4Â2017.Â Respondent Nos.1 and 2 to complete service of notice upon them

despite fact whether they are continuing as or have ceased to be such members or have retired.â??

15. Subsequently, on 13th 12th 2017, this Court in Criminal Application Suo Motu No.16 of 2017 arising out of Civil Writ Petition No.538 of 2016 (D)

accepted the unconditional apology tendered by the members of the Committee and the proceedings of contempt were dropped.

16. We may point out few instances of reprehensible conduct of the members of the Committee and the establishment as under :

(1) In spite of the fact that under the provision of Section 6 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, the Committee is required to decide the caste or tribe claims within a stipulated period. Without any explanation, the matters are kept pending for

a long period to frustrate the claim for benefit without adjudication.

(2) In spite of the directions of this Court to decide the caste or tribe claims within a stipulated period, the Committee fails to decide the same, for

which no explanation is offered.

(3) If the time[^]limit set out by the Court is expired, no efforts are taken to move an application for extension of time and the orders of the Court are

frequently violated as a matter of rule.

(4) For failure to consider the vital documents and aspects by the Committee, this Court is frequently compelled to remand the matter back to the

Committee for deciding it afresh.

(5) Neither the date for passing the order is fixed in presence of the claimants nor the order is passed in their presence, which results in taking adverse

action against the claimant even without knowing the order.

(6) When the orders are passed behind the back of the claimants, the same are not communicated immediately either on cellphone or e[^]mail address

of the claimants available with them, which results in taking adverse action against the claimants, leaving no time to challenge the order and seek

interim protection.

(7) Passing of order is disclosed when notices are issued by this Court in a writ petition seeking direction to decide the claim within a stipulated

period.Â Many times, after issuance of notice in such cases, a letter is issued demanding certain documents and information to show that the claimant

is at fault and it is invariably found that such documents and information are already supplied by the claimants.

(8) Several tactics are adopted to prolong the adjudication and compel the claimants to institute several proceedings, including those for contempt, and incur unnecessary expenditure.

(9) The ratio of the decisions of this Court and of the Apex Court is invariably followed in breach.

(10) If the claim of the father is validated, the claim of the son is invalidated, without any finding as to any fraud played by the father in obtaining the validity certificate.

(11) Every effort is made by the Committee to see that the claimants get monetarily and mentally exhausted in litigation.

(12) There can be innumerable examples where different Benches of this Court have called the members of the Committee to appear in person to furnish an explanation or imposing the costs.

17. We, therefore, direct the office to prepare a compilation of such reportable and unreportable orders or judgments passed by different Benches of

this Court containing the strictures passed on the members of the Committee or imposing the costs or dropping the proceedings for contempt.Â What

is to be done thereafter, is left open.Â We warn the members of the Committee to improve their approach to the problems of the claimants and we

are now constrained to build up a record against the members of the Committee, which may result in taking drastic action permissible in law.

18. In view of above, the petition is disposed of.Â Rule accordingly.Â