

(2003) 02 BOM CK 0077

In the Bombay High Court

Case No : Writ Petition No. 2517 of 1994

Kum. Jyoti Pralhad Sangle

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 15-02-2003

Acts Referred:

Citation : (2003) 2 ALLMR 62 : (2003) 4 BomCR 558 : (2003) 3 MhLj 754

Hon'ble Judges : R.M. Lodha, J;Nishita Mhatre, J

Bench : Division Bench

Advocate : R.K. Mendadkar, for the Appellant; C.R. Sonawane, Assistant Government Pleader for Respondent Nos. 1 to 4, 8 and 9, for the Respondent

Judgement

R.M. Lodha, J.—At the outset, Mr. R.K. Mendadkar, learned Counsel for Petitioner, handed over affidavit of the Petitioner which we mark "X" for identification purposes. In the said affidavit, it is stated that pursuant to the interim order passed by this Court in the year 1994, the Petitioner's application was considered by Respondent No. 7 as designated authority and he allotted Seth G.S. Medical College to the Petitioner where she took admission in first year M.B.B.S. course in December 1994. She has further stated that she has passed three subjects of third and final year of M.B.B.S. examination and has to clear two subjects yet. She has given an undertaking in the affidavit that she would not claim any benefits belonging to Scheduled Tribe "Mahadeo Koli" and she accept the finding recorded by Respondent No. 4 Committee without any reservation.

2. Based on this affidavit, we have no hesitation in affirming the order of Caste Scrutiny Committee rejecting Petitioner's caste claim and we hold that Petitioner does not belong to Scheduled Tribe Mahadeo Koli.

3. Needless to say, since the Petitioner's caste claim has been rejected by the Caste Scrutiny Committee which Petitioner has accepted in her affidavit as noted above and based on that a finding has been recorded by us that Petitioner does

not belong to Scheduled Tribe Mahadeo Koli, needless to say none of the family members of the Petitioner can claim to be belonging to Scheduled Tribe Mahadeo Koli and crave benefits and concessions based on their belonging to Mahadeo Koli.

4. The question, however, arises as to what will happen to Petitioner's admission to M.B.B.S. course which she got in the year 1994 pursuant to the interim order passed by this Court. One thing is certain, Petitioner is not brilliant student as she was not been able to pass out M.B.B.S. course in more than eight years when the entire degree course is of only four and half years. Having pursued M.B.B.S. course for more than eight and half years, we are of the view that at this time it will not be in the interest of justice to cancel Petitioner's admission to M.B.B.S. course which she got pursuant to interim order passed by this Court based on her claim that she belonged to Scheduled Tribe Mahadeo Koli. This view of us finds support from some of the orders passed by this Court from time to time. In Writ Petition No. 2451 of 1994, Shri Yuvraj Laxman Mane v. State of Maharashtra and Ors. decided on 29th February 1996, this Court observed thus:

"4. Now the only question remains to be considered is whether the petitioner, who is studying in the third semester of second year in Dr. Vaishyampain Medical College of Solapur, should be disturbed at this stage. We are of the opinion that the direction for removing the petitioner from the college at this stage is not likely to benefit any other candidate and the seat go vacant. Moreover, the petitioner has almost completed the second year. Therefore, we feel that the petitioner should be allowed to continue his studies. But, however, he cannot continue his studies with his social status as Mahadeo Koli (Scheduled Tribe). Mr. Jahagirdar agrees to file undertaking of his client within one week from today that he will not claim any benefit as Mahadeo Koli in the future. Respondents are is directed to allow the petitioner to continue MBBS course subject to filing undertaking in above terms."

5. The Division Bench of this Court in Writ Petition No. 1081 of 1998, Shri Vishal Eknath Patil v. State of Maharashtra and Ors. decided on 17th July 1998 gave the similar benefit to the Petitioner therein by observing thus:

"2. Mr. Mendadkar, learned counsel for the petitioner submits that the petitioner was granted admission to the Bachelor of Engineering on the basis of caste certificate granted by the Executive Magistrate, Alibag and now the petitioner has completed the Bachelor of Engineering Degree Course as he has appeared for final examination and the results are awaited. In view of the above, the learned counsel submits that he has instructions from the petitioner who is present in the court not to contest the order of the caste Scrutiny Committee provided the admission given to him in Bachelor of Engineering Degree course is not in any way affected. He submits that he want to give up the caste claim to buy peace. He also submits that in future he will not claim that he belongs to Malhar Koli, Scheduled Tribe caste.

3. In view of the above stance of the petitioner, the learned counsel for the

respondents submits that the respondents will not, in any way, come in the way of the petitioner incompleting his study for the Bachelor of Engineering Course."

6. In yet another case being Writ Petition No. 1116 of 1998, Ms. Rudhita Damodhar Baile v. State of Maharashtra and Ors. decided on 24th December 1998, the admission of Petitioner therein in M.B.B.S. course was not disturbed by observing thus:

"However, we direct that petitioner's admission to II MBBS will not be disturbed. However, petitioner will undertake that petitioner will not claim any benefit as Mahadeo Koli or on basis of any scheduled Tribe Category. Similar undertakings will be given by both the parties of the petitioner."

7. In the light of the aforesaid discussion, we dispose of Writ Petition by following order:

(a) The impugned order passed by Respondent No. 4 is maintained.

(h) The Petitioner's undertaking given in paragraph 7 of the affidavit "X" that she shall not claim any benefits as belonging to Scheduled Tribe Mahadeo Koli is accepted.

(c) We further observe that Petitioner's relatives shall also not claim any benefit or concession as belonging to Scheduled Tribe Mahadeo Koli in the light of the discussion aforesaid.

(d) The Petitioner's admission to M.B.B.S. course shall, however, remain unaffected.

No costs.