IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2249 OF 2002

Atul Nagnath Swami, **...PETITIONER**
Age-20 years, Occu-Student/Education,
R/o. Behind the House of Humnabade,
Azad Chowk, Latur,

Versus

1. The State of Maharashtra **...RESPONDENTS**

2. The SC, VJNT, OBC and Special BC Caste
Certificate Scrutiny Committee,
Aurangabad
Through its Member-SEcretary
& Special District Social Welfare Officer
Aurangabad.

Mr. U.R.Awate h/f Mr.S.B.Talekar, Advocate for the petitioner.
Mr.S.K.Kadam, AGP for the R-1 to 3.

CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.
DATED : 25.06.2015

ORAL JUDGMENT : [PER: A.M.BADAR, J.]

1. By this petition, petitioner is challenging the order dated 16.03.2002 passed by respondent No.2-Scrutiny Committee thereby invalidating the caste claim of the petitioner for “Malajungam” Schedule Tribe.

2. Shri Awate, learned counsel holding for the Shri. S.B.Talekar, advocate submitted that despite issuing letters his client has not imparted instructions to him. In fact the learned counsel for the petitioner had previously availed one chance on 10.06.2005 for seeking instructions from his client. However, even today he is short of instructions.

3. Mr. Kadam, learned AGP appearing for respondent/State as well as the Scrutiny Committee submitted that father of the petitioner is an educated person serving as a teacher. The learned AGP further contended that in service record of father of the petitioner, his caste is shown as “Jangam”. According to learned AGP, the Scrutiny has considered documents tendered before it by the petitioner and observed that, the documents of the petitioner as well as his brother are of recent origin. According to the learned AGP, the Scrutiny Committee after considering the entire evidence on record has arrived at a finding that the petitioner failed to established his claim for “Malajangam” Scheduled Caste.

3. With the assistance of the learned AGA we have carefully perused the record made available. It is not in

dispute that the father of the petitioner is serving as a teacher and is an educated person. The Scrutiny Committee its impugned order has observed that the petitioner has furnished copy of the first page of service book of his father Shri. Swami Nagnath Gurupad which shown his caste as “Jangam”. The Scrutiny Committee further considered the fact that the date of birth of the petitioner is 10.06.1982 and other evidence relied by the petitioner to substantiate his caste claim is his own school record which is of recent origin. Similarly the Committee also considered the fact that the other set of documents relied by the petitioner consists of school record of his brother Amol who is born on 12.10.1980. The Committee found that both these sets of documents are of very recent origin showing caste of the petitioner as “Malajangam”. In the back drop of the fact that service record of father of the petitioner was showing his caste as “Jangam”, respondent No.2 Scrutiny Committee has rejected the documents of recent origin pertaining to petitioner as well as his brother Amol. The Scrutiny Committee further observed that though father of the petitioner is an educated person, the documents showing his caste recorded in school record as well as other revenue record are not tendered before the Committee. It is further observed that documents showing caste of Uncle, Aunt and Grand-father of the petitioner are also

not tendered before it. The Scrutiny Committee with this reasons come to the conclusion that the petitioner is not adduced satisfactory evidence to establish his caste as “Malajangam”.

4. It is well settled that burden of proof proving that the person belongs to the caste claimed by him is on such claimant. In the case in hand, the petitioner has failed to produce necessary evidence in the form of school record reflecting caste of his father so also the revenue record such as extract of birth register of his father for substantiating his claim for “Malajangam” Scheduled Caste. The scope of Judicial review of such order is very limited. Upon examining the order of the Scrutiny Committee vis-a-vis the documents tendered by the petitioner for establishing his caste claim, we are of the considered that the Scrutiny Committee has rightly arrived at finding that the petitioner has failed to prove his caste claim for “Malajangam” Scheduled Caste. Want of sufficient evidence is the finding recorded by the Scrutiny Committee which in our opinion is not at all perverse. Hence we found no substance in challenge to the impugned order and such order. The writ petition is therefore dismissed. Rule Discharged. No order as to costs.

5. In view of disposal of writ petition, civil application dose not survive & stands disposed of.

[A.M. BADAR,J.] **[A.V. NIRGUDE,J.]**

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