

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6535 OF 2013

Ramesh Revansiddha Patil)
 R/at Kadabgaon, Tal. Akkalkot,)
 Dist. - Solapur) .. Petitioner

Versus

1. State of Maharashtra)
 Through its Secretary Social Justice)
 & Special Assistance Department)
 Mantralaya, Mumbai 400 032)
2. Scheduled Castes, De-Notified Tribes)
 Nomadic Tribes, Other Backward)
 Classes & Special Backward Category)
 Divisional Caste Certificate Scrutiny)
 Committee No. 1, Solapur through its)
 Secretary at Solapur, Dist.-Solapur)
3. Collector, Solapur)
 Collectorate Compound, Solapur)
4. Tahasildar, Akkalkot, Solapur)
5. Jafar Hanif Mulla)
 R/at Kadabgaon, Tal. - Akkalkot,)
 Dist. Solapur) .. Respondents

WITH
CIVIL APPLICATION NO. 44 OF 2015
IN
WRIT PETITION NO. 6535 OF 2013

Jafar Hanif Mulla .. Applicant

In the matter between

Ramesh Revansiddha Patil .. Petitioner

Vs.

State of Maharashtra & Ors. .. Respondents

Mr. A. G. Damle, Sr. Counsel i/b P. G.Sarda, Advocate for the petitioner

Mr. Vikas Mali, AGP for the State – R. Nos. 1 to 4.

Mr. S. G. Kudle, Advocate for the applicant in CA No. 44/2015 & Respondent No. 5 in WP 6535/13..

CORAM:-NARESH H. PATIL &

V. L. ACHLIYA, JJ.

**DATE ON WHICH THE JUDGMENT
IS RESERVED : 28/04/2015**

**DATE ON WHICH THE JUDGMENT
IS PRONOUNCED :17/06/2015**

JUDGMENT: (Per V. L. Achliya, J.)

Rule. Returnable forthwith. By consent of the parties taken up for final hearing at the stage of admission.

2 Being aggrieved by the order dated 11/7/2013, passed by respondent No. 2 – Caste Scrutiny Committee, Solapur, declaring the caste certificate dated 27/10/2010 issued by the Deputy Collector, Solapur, in favour of petitioner as invalid and further

directed to confiscate the same, the petitioner has preferred this petition on the grounds set out in detail in the petition.

3 The facts briefly stated to the extent they are relevant and required for the decision are as follows:

(a) The petitioner herein claims to belong to “Lingayat Teli”, a caste, which is recognized as OBC in the State of Maharashtra. After securing the caste certificate from the Deputy Collector, Solapur, the petitioner approached the Caste Scrutiny Committee (hereinafter referred to as “Committee”) for validation of caste certificate dated 27/10/2010 issued by Sub Divisional Officer, Solapur, certifying his caste as “Lingayat Teli” (hereinafter referred to as the said certificate. The Committee vide its order dated 8/3/2011 pleased to issue caste validity certificate in favour of the petitioner. On the basis of the said caste certificate, he contested the election of Village Panchayat Kadabgaon, Taluka Akkalkot, District Solapur from category reserved for O.B.C. and respondent No. 5 lost the election against petitioner.

(b) Respondent No. 5 filed Writ Petition No. 8041 of 2012 before this Court contending therein that the petitioner does not belong to 'Teli' caste and the caste validity certificate issued in his favour by Committee was issued without following the procedure prescribed under the law. The said petition was disposed of by Division Bench of this Court vide order dated 8/10/2012 passed in said petition. The order passed by Committee to issue caste validity certificate in favour of the petitioner was set aside and the matter was relegated to Committee with direction to decide the matter afresh by following proper procedure and in accordance with law. Pursuant to said order the respondent No. 2 Committee conducted the fresh inquiry. The Committee called the vigilance report from vigilance officer. The vigilance officer after conducting the inquiry submitted report on 20/11/2012. The respondent No. 2 Committee, after hearing the parties and perusing the record which includes the report of the vigilance officer, say of petitioner to report of vigilance officer, pleased to reject the claim of petitioner for issuance

of caste validity certificate and further directed to confiscate the caste certificate issued in favour of petitioner. Being aggrieved by said decision of Committee, the petitioner has preferred this petition.

4 We have carefully considered the submissions advanced by the learned counsel appearing for the parties. We have also perused the original record and proceedings of Caste Scrutiny Committee and the original record of birth and death register maintained with the office of Tahsildar, Akkalkot, relating to village Banajgol, Taluka Akkalkot of the years 1936 and 1938, which is heavily relied in support of the caste claim of petitioner.

5 It is settled position in law that while exercising the writ jurisdiction by High Court as against the order passed by the Tribunal or quasi judicial authority, this Court is not supposed to sit in appeal over the judgment and order passed by such Committee / Tribunal. If the Scrutiny Committee, after examining relevant material, found to have recorded its finding supported by the reasons, High Court in exercise of its writ jurisdiction is not expected to upset those reasons and findings unless the reasons and

findings recorded are found to be based upon exclusion of some admissible evidence or consideration of some inadmissible evidence by the Committee or the Tribunal, or such Committee or Tribunal has no jurisdiction at all to deal with the matter or the finding recorded by the Committee / Tribunal are such which no reasonable man could arrive at on consideration of material on record. In this context it is useful to refer the decision of Apex Court in the case of **State of Maharashtra v. Milind & Ors., (2001) 1 SCC 4**, wherein in para 33, the Apex Court has observed as under:

“33. Even otherwise, as already stated above, on facts found and established the authorities have rejected the claim of the respondent No. 1 as to the Caste Certificate. The power of the High Court under Article 227 of the Constitution of India, while exercising the power of judicial review against an order of inferior tribunal being supervisory and not appellate, the High Court would be justified in interfering with the conclusion of the tribunal, only when it records a finding that the inferior tribunal's conclusion is based upon exclusion of some admissible evidence or consideration of some inadmissible evidence or the inferior tribunal has no

jurisdiction at all or that the finding is such, which no reasonable man could arrive at, on the materials on record. The jurisdiction of the High Court would be much more restricted while dealing with the question whether a particular caste or tribe would come within the purview of the notified Presidential Order, considering the language of Articles 341 and 342 of the Constitution. These being the parameters and in the case in hand, the Committee conducting the inquiry as well as the Appellate Authority, having examined all relevant materials and having recorded a finding that respondent No. 1 belong to 'Koshti' caste and has no identity with the 'Halba/Halbi', which is the Scheduled Tribe under Entry 19 of the Presidential Order, relating to State of Maharashtra, the High Court exceeded its supervisory jurisdiction by making a roving and in-depth examination of the materials afresh and in coming to the conclusion that 'Koshtis' could be treated as 'Halbas'. In this view the High Court could not upset the finding of fact in exercise of its writ jurisdiction. Hence, we have to essentially answer the question no. 2 also in the negative. Hence it is answered accordingly”.

6 We have perused the order dated 11/7/2013 passed by Caste Scrutiny Committee in the matter of petitioner as well as his brother Prakash Revansidhappa Patil whereby their caste claim have been rejected by the Committee and certificate of validation of caste issued in their favour were ordered to be confiscated. So far as the case of the petitioner is concerned, though the petitioner has produced on record number of documents but except the following five documents, all other documents reflect the caste of the petitioner and his father and or close relatives either as 'Hindu Lingayat' or 'Hindu Lingayat Patil'.

- (1) Caste validity certificate dated 21/1/2011 issued in favour of Prakash Revansidhappa Patil (i.e. document at Serial No. 2).
- (2) Copy of school leaving certificate issued by Headmaster of ZP Primary Marathi School at Kadappa, Taluka Akkalkot, in respect of Prakash Revansidhappa Patil, the brother of the petitioner (i.e. document at Serial No. 5).
- (3) Copy of school leaving certificate issue by

Headmaster of ZP Marathi School at Kadappa, Taluka Akkalkot, in respect of Revansidhappa Patil, i.e. the father of the petitioner (i.e. document at Serial No. 8).

(4) Copy of extract of death and birth register of the year 1966 in respect of entry No. 59 of village Banajgol, Taluka Akkalkot in respect of Kalappa Munappa Patil, grandfather of the petitioner (i.e. document at Serial No. 10).

(5) Copy of extract of birth and death register issued by Tahsildar Akkalkot, pertaining to entry No. 59 of the year 1938 pertaining to grand father of the petitioner) (i.e. document at Serial No. 11).

7 So far as the school record of the petitioner is concerned, the Committee has found that the caste of the petitioner has been recorded as 'Lingayat'. Similarly the caste of Suresh Revansidhappa Patil, the brother of the petitioner was also found to

be recorded as 'Hindu Lingayat', in his school record. In the school leaving certificate in respect of the father of the petitioner (document at Serial No. 9), the Committee has found the caste of the father of the petitioner also recorded as 'Lingayat'. In respect of Hanumanta Kalappa Patil and Shivraya Kalappa Patil, the uncles of the petitioner, in their school record their caste shown to be recorded as 'Lingayat' (documents at Serial Nos. 13 & 14). Similarly in the old document of 1939 issued by Tahsildar Akkalkot in respect of entry regarding birth of Kamalabai, the daughter of Kalappa Munappa Patil, (grandfather of the petitioner) also recorded as 'Lingayat' (document at Serial No. 55). Thus most of the documents relied by the petitioner as well as the respondent, the caste of the petitioner found to be consistently recorded as 'Lingayat'.

8 So far as the caste validity certificate (document at Serial No. 2), the Committee has found the certificate was obtained by the brother of the petitioner by practicing fraud upon the Committee on the basis of forged and fabricated document and same has been confiscated by same order. Therefore, the caste validity

certificate issued in favour of brother of petitioner no way helps the petitioner to support his caste claim. Similarly the copy of the school leaving certificate (i.e. document at Serial No. 5) relied by the petitioner in support of his caste claim, the Committee has found the said school leaving certificate as false and fabricated document created by the brother of the petitioner to secure the caste validity certificate. In the vigilance inquiry it was found that in the original school record of Prakash Revansidhappa Patil, the brother of the petitioner, recorded as "Hindu Lingayat". Thus the reason and findings recorded by the Committee cannot be termed as incorrect and perverse so as to call for interference in exercise of writ jurisdiction.

9 In support of his caste claim, the petitioner has relied on another document i.e. school leaving certificate (i.e. document at Serial No. 8) in respect of his father Revansidhappa Patil allegedly issued on 12/6/1941. As per observation recorded by Committee, on scrutiny of said document by the vigilance officer, the headmaster of the school has made statement that the said certificate was not issued from their school and same also not bears the seal of their

school. On the basis of the outcome of the report of inquiry submitted by the vigilance officer, the Committee has noted in the order that the said document cannot be relied in support of the claim of the petitioner as the same is false and fabricated document created to secure the caste validity certificate by the petitioner. The Committee has recorded strong observations in respect of conduct of the petitioner and his brother in indulging into an act of creating false document.

10 So far as the other documents produced by the petitioner in respect of his father i.e. Revansiddhappa Patil, the Committee has noted that the certificate reflects the caste of the father of the petitioner as 'Lingayat' which no way help the petitioner to prove his caste claim as "Lingayat Teli".

11 The petitioner has heavily relied on copies of two extracts of birth and death register of village Banajgol, Taluka Akkalkot. According to the petitioner in said register there is a entry No. 59 of 1936 in the name of Kalappa Munnappa Patil, the grandfather of petitioner in respect of birth of father of petitioner recorded by the village officer. The petitioner has also relied upon

another document of birth and death register of village Banajgol, Taluka Akkalkot maintained with the office of Tahsildar relating to entry No. 59 dated 12/1/1938 pertaining to Kalappa Munnappa Patil. , the brother of grandfather of petitioner in respect of entry regarding birth of Bhimraya, the grand uncle of petitioner. According to petitioner in both the documents, in the column of caste, the caste is mentioned as "Teli". It is contended that these two documents which have great probative value, the petitioner has established that he belongs to "Lingayat Teli caste" which is recognized as 'Other Backward Class'. In respect of these two documents, the Committee has observed that during the vigilance inquiry, the vigilance officer has found the difference in ink in the letters in the original record pertaining to said two documents. The Committee has found said documents as suspicious. The Committee has further noted that in the school record of the father of the petitioner caste is mentioned as 'Lingayat'. Therefore, the Committee has refused to place reliance on those documents. In our view the conclusion drawn by Committee based upon other evidence on record and report of vigilance inquiry can not said to be

incorrect or perverse.

12 So far as other documents produced and relied by the petitioner is concerned, the Committee has noted that in all those documents, the caste is shown as 'Lingayat' and, therefore, those documents no way supports the claim of the petitioner to establish his caste claim as “Lingayat Teli”. On close scrutiny of the documents, in the light of report of the vigilance officer and the rival contentions, the Committee has come to the conclusion that the petitioner has failed to produce any cogent and convincing evidence to substantiate his claim to establish that he belongs to Other Backward Class i.e. 'Lingayat Teli’.

13 Mr. Damle, the learned counsel for the petitioner assailed the reasons and findings recorded by the Committee with contention that the Committee has erred in not taking into consideration that “Lingayat” is a community and not the caste. He has contended that 'Teli' is the caste. According to him earlier there was no practice to record the caste and sub-caste of the person and, therefore, in the school record in the column of the caste of the petitioner and his close relatives whose documents are relied in

support of claim of the petitioner the caste is mentioned as “Lingayat” or Hindu Lingayat instead of “Lingayat Teli). In support of contention as to earlier practices, the learned counsel has relied upon the Circular bearing No. PRE-1066/(2094)/Prashi-1 dated 9/2/2000, which appears to be issued by State Government. In the light of said circular, the learned counsel has submitted that prior to year 2000, it was not mandatory to record caste and sub-caste of the student in the school leaving certificate. Due to this reason, in the documents produced and relied by the petitioner in support of his caste claim, in the column of the caste the caste is mentioned as 'Hindu Lingayat' and the word “Teli” not find place in school record of petitioner and his relatives. It is, therefore, contended that the reasons and findings recorded by the Committee based upon the school record of the petitioner as “Hindu Lingayat” are incorrect and not sustainable in law.

14 We are not inclined to accept contention of learned counsel that in view of the circular dated 9/2/2000, the inference can be drawn that real caste of the petitioner and his close relative was not recorded in the school record as per prevailing practices. In our

view, only on the basis of Circular dated 9/2/2000 the inference cannot be drawn that prior to year 2000, there was no practice to record the caste and sub-caste in the school record. The circular appears to have been issued in view of some difficulties faced by Students while securing caste certificate being brought to the notice of the Government. It is pertinent to note that the petitioner himself produced on record the copy of the school leaving certificate allegedly issued in respect of his father pertaining to admission taken by him in school on 12/6/1941, wherein the caste of his father was recorded as 'Hindu Teli' (i.e. school leaving certificate which the Committee has found to be false and fabricated document created for the purpose of securing the caste validity certificate). If according to the petitioner, if there was no practice to record the caste and sub-caste of the person in the school record prior to the year 2000, then question arises as to how such entry in respect of his father was recorded. Similarly in respect of the school record of the brother of the petitioner which is claimed to be of the year 1973 (which is also found to be false and fabricated document by the committee) the caste is found to be recorded as "Hindu Teli". We

are, therefore, not inclined to accept the contention of the learned counsel that in the light of the circular dated 9/2/2000, the inference can be drawn that prior to the year 2000 there was no practice to record the caste and sub-caste of the persons, of students taking admission in the school and, therefore, in the school record produced of petitioner, caste is shown as "Hindu Lingayat".

15 Mr. Damle, the learned counsel for the petitioner has heavily relied upon two extract of birth and death register maintained with the office of the Tahsildar, Akkalkot, pertaining to village Banajgol, Taluka Akkalkot, wherein according to petitioner the entry in respect of birth of father and uncle of petitioner recorded in said register in the column of caste in both the certificates the caste is mentioned as "Teli". The learned counsel has submitted that the said two documents relied by the petitioner are old and pre-constitution documents. It is further submitted that the documents are the copies of the public record. Therefore, both the documents have great presumptive value as to the correctness of the entry recorded therein.

16 Per contra, the learned counsel for the respondent No.

5 supported the findings of the Committee and contended that the observations recorded by the Committee that both the documents are suspicious and cannot be relied, same are based upon the scrutiny of the original documents by the vigilance officer. The learned counsel has pointed out that what has been observed by the Committee is apparent from the face of the original record.

17 Since the petitioner has filed extract of birth and death register of the year 1936 and 1938 and the documents relied are claimed to be basic documents on which the petitioner has heavily relied in support of his caste claim, we had directed the learned AGP to produce the original register from which these extract of entries were issued to petitioner. Pursuant to the direction, officer from the concerned office has produced the original register for our perusal. We have perused the same. We are of the view that the observations recorded by the Committee as regards to said two documents cannot be said to be without any basis. We have noticed that some of the pages of the register in continuation of the page after which entries relied by the petitioner are found to be torn. On subsequent pages there are no entries in respect of other columns, more particularly

the entries in respect of caste recorded by authority in respect of other persons. Therefore, the reasons and findings recorded by the Committee in respect of said two documents cannot be said to be incorrect or perverse. In view of the observations recorded by the Committee in respect of overall conduct of petitioner the suspicion expressed by Committee raising doubt as to correctness of entries recorded in said two documents cannot be said to be without any foundation.. We are, therefore, not inclined to accept the contention of the learned counsel for the petitioner that the Committee has erred in not placing reliance on the extract of birth and death register relating to father and close relative of the petitioner.

18 In view of the discussions made in the foregoing paras and the conclusions to which we have arrived that the petitioner has failed to make out any case for intervention in exercise of extraordinary jurisdiction of this Court under Article 226 as well as supervisory jurisdiction under Article 227 of the Constitution of India, the petition deserves to be dismissed. Accordingly, we dismiss the petition with no order as to costs. The original record and proceedings be returned to Caste Scrutiny Committee through

office of the Government Pleader, Mumbai.

19 In view of the disposal of the main petition, the civil application No. 44 of 2015, also stands disposed of. Rule discharged.

(V. L. ACHLIYA, J.)

(NARESH H. PATIL, J.)

After pronouncement of the order, learned counsel for the petitioner prays for stay of the operation of the order. The requested is objected to by the other side. Hence request stands rejected.

(V. L. ACHLIYA, J.)

(NARESH H. PATIL, J.)

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