

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.821/2015

Vijay s/o Ganesh Chittari

...Versus...

State of Maharashtra through its Secretary, Tribal Development Department,
Mantralaya, Mumbai 400 032 and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.S. Warulkar, Advocate for petitioner
Ms Tajwar Khan, AGP for respondent nos.1 and 2

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 03.09.2015

Heard.

By this petition, the petitioner impugns the order of the Scrutiny Committee, dated 30.4.2014, invalidating the claim of the petitioner of belonging to the 'Mang' Scheduled Caste.

It appears on hearing the learned Counsel for the parties and on a perusal of the impugned order that the caste claim of the petitioner was invalidated in view of the provisions of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012. The Scrutiny Committee found that the grandfather of the petitioner was a resident of Hyderabad and had not migrated to Nagpur in the Maharashtra State before the

deemed date i.e. 10.8.1950 that is the date of the presidential order for the Scheduled Castes. The Scrutiny Committee found on the basis of the material on record and the statement of the relative of the petitioner that the petitioner's grandfather was a resident of Hyderabad and had shifted to Nagpur from Andhra Pradesh on 11.8.1962. The Scrutiny Committee observed that since the petitioner was born after the deemed date i.e. 10.8.1950, the place of ordinary residence for the purpose of issuance of the caste certificate would be the place of permanent residence of his father, grandfather or great grandfather on the deemed date i.e. 10.8.1950. The Scrutiny Committee found that the forefathers of the petitioner were permanent residents of Hyderabad on the deemed date i.e. 10.8.1950 and the petitioner could not have secured the caste certificate from the competent authority at Nagpur.

We do not find any illegality in the order of the Scrutiny Committee, invalidating the caste claim of the petitioner. As per the provisions of Rule 6 (1) (c) of the Rules of 2012, the caste certificate holder migrating to the State of Maharashtra from the State of his origin for the purpose of seeking education, employment, etc. would be deemed to be a person belonging to the reserved caste of the State of his origin and may be entitled to derive the benefits from the State of his origin and not from the State of Maharashtra. As the Scrutiny Committee recorded a finding of fact based on the material on record that the petitioner's grand-father was an ordinary resident of Hyderabad on the deemed date i.e. 10.8.1950 and had shifted to Maharashtra after 1962, the petitioner would not have been

entitled to derive the benefits from the State of Maharashtra. The order of the Scrutiny Committee finds support from the Full Bench judgment of this Court reported in 2010 (2) Mh.L.J. 904 (Shweta Santalal Lal...Versus...State of Maharashtra and others) which in turn had followed the judgment of the Hon'ble Supreme Court reported in 2004 (4) Mh.L.J. 784 (Sudhakar Vithal Kumbhare...Versus...State of Maharashtra and others). Apart from the fact that the petitioner had migrated from the State of Andhra Pradesh, the Scrutiny Committee found that the caste of the grandfather was recorded as 'Hindu Telugu' in his service book. The petitioner's grandfather was working in the police department and the service book of the petitioner's grandfather clearly mentioned the caste of the petitioner's grandfather as 'Hindu Telugu'. Also, in the School Leaving Certificate of the petitioner's father, the caste was recorded as 'Madrasi Naidu'. The aforesaid entries, according to the Scrutiny Committee, were enough to disprove the case of the petitioner that the petitioner belongs to the 'Mang Scheduled Caste'.

There is no infirmity in the order of the Scrutiny Committee. The order is based on the judgment of the Full Bench and the judgment of the Hon'ble Supreme Court.

Since the order of the Scrutiny Committee is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE