

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

WP No. 2061 of 2014
Vinod v. The State of Maharashtra and ors

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

Court's or Judge's orders.

Mr V. R. Choudhari, Adv for petitioner
 Mr T. R. Kankale, AGP for respdts 1,2
 Mr S. G. Jagtap, Adv for respdts 3 to 5

CORAM : B. P. DHARMADHIKARI AND
 A. P. BHANGALE , JJ

DATED : 16th January 2015

1. Heard learned counsel for the respective parties.
2. The only question before this Court is, whether family of the petitioner had migrated to the State of Maharashtra from Uttar Pradesh before 21.11.1961 ? The Vigilance Cell Authority has recorded statement of petitioner who disclosed that his grand-father Gazidin Kalu Pal was residing in the year 1960-61 in the house of one Rambaksh Ramharak Pal at village Babhulkheda, Tahsil and District Nagpur in Maharashtra State. He was having heard of sheeps . Gazidin had two sons viz. Ramdas and Shatrughna. Shatrughna is working in Railways since March 1961. He has further mentioned that his caste is "Dhangar" and he is Hindu by religion.
3. The Scrutiny Committee has not accepted

the statement. It found that uncle of petitioner Shatrughna came to Maharashtra for his employment. His Service Book revealed his permanent address as Tivarka Purva, Post Madhosingh Pura, Tahsil and District Pratapgad. Shatrughna is born on 1.7.1941. Similarly, the Service Book of father of petitioner viz. Ramdas Pal is also looked into. Ramdas had been appointed in May 1974 and his school leaving certificate reveals that he was born on 15.5.1947. His residential address was recorded as Pure Tiwari's house, Pratapgad. His residence has been shown in Uttar Pradesh since his birth and he left school for securing employment. School Leaving Certificate has been issued to Ramdas on 1.1.1974. These facts are found to militate with version of petitioner that he is native from village Babhulkheda, Tahsil and District Nagpur where his grand-father was residing since 1960-61. In that statement, petitioner has not given anything about the date of birth of his father or uncle.

4. The Scrutiny Committee has found documentary evidence more consistent. It has also recorded that petitioner did not produce any document to show that Gazidin was residing at Babhulkheda.

5. The year 1960-61 appears to have been selected by the petitioner because of fact that "Dhangar" has been treated as Nomadic Tribe since 21st November 1961. Government Resolution issued on 17th January 1990 in this respect adds said caste to the list of Nomadic Tribe.

6. In this situation, we do not find anything wrong with the appreciation of material by the Scrutiny Committee. Petitioner is rightly found not entitled to the status of Nomadic Tribe in the State of Maharashtra.

7. At this stage, Advocate Choudhari has pointed out petitioner joined employment in the year 1998 i. e. prior to coming into force of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes And Special Backward Category (Regulation of Issuance And Verification of) Caste Certificate Act, 2000 and before delivery of judgment of the Honourable Apex Court in the case of **Milind Katware v. State of Maharashtra** reported at **2001 (1) Mh.L.J. 1**. He, therefore, seeks protection in terms of Full Bench judgment of this Court in the case of **Arun Vishwanath Sonone v. State of Maharashtra & ors** reported at **2015 (1) Mh.L.J. 457**. Request is being opposed by learned Assistant Government Pleader appearing for respondents no. 1 and 2 and learned counsel appearing for respondents no. 3 to 5. They submit that the protection is available to a person whose caste claim is found invalid. Petitioner is not entitled to claim any benefit in the State of Maharashtra.

8. We find substance in objection raised by learned counsel for respondents. Accordingly, we hold that petitioner is not entitled to protection. Petition is

dismissed. No costs.

9. However, this Court has while issuing notice, granted status-quo as on 24.4.2014. Hence, employment of petitioner with respondents no. 4 and 5 still continues. We continue that interim order for a period of six weeks more. Needless to say, it shall cease to operate automatically thereafter.

JUDGE

JUDGE

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