

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

WRIT PETITION NO.5769 OF 2013

Shri Kishor Krishnarao Pakhale

..vs..

**Scheduled Tribe Caste Scrutiny Committee, thr its Member
Secretary, Nagpur and anr**

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

Court's or Judge's order

Shri Y.B. Mandpe, counsel for the Petitioner.
Shri Abhijeet Deshpande, counsel for R-1.
Shri Anoop Parihar, counsel for R-2.

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 15, 2015.**

1. Heard learned counsel appearing for the
respective parties.

2. The petitioner – as an Assistant Teacher,
in the employment of respondent No.2, has filed
the present writ petition under Article 226 of the
Constitution of India for directing the Caste
Scrutiny Committee to validate his caste claim as

.....2/-

belonging to caste “*Halba*” (**Scheduled Tribe**). In the alternative, there is also prayer to declare him as belonging to “*Other Backward Classes*” as per the Circular issued by the State of Maharashtra. The challenge is to Communication dated 11.6.2013 by which respondent No.2 – employer called upon the petitioner to produce his Caste Validity Certificate.

3. The appointment of the petitioner as “*Halba*” (Scheduled Tribe) candidate, by appointment order at Annexure-A, is not in dispute. That order does not specifically carry any date but it refers to an appointment vide order dated 7.8.1997 in reference clause at Sr.No.2. Permanent approval has been given to appointment of the petitioner on 31.12.1999 from 1.2.1999 onwards.

4. Shri Y.B. Mandpe, learned counsel for the petitioner, submits that the caste claim of the petitioner has been forwarded for its verification on 22.6.2007 by respondent No.2 - employer to respondent No.1 – Caste Scrutiny Committee and it is still pending.

Shri Anoop Parihar, learned counsel for respondent No.2 - employer does not dispute this fact. Learned counsel for respondent No.1 – Scrutiny Committee, however, has invites our attention to reply affidavit. It is pointed out that respondent No.1 – Scrutiny Committee at Pune received the tribes claim of the petitioner in the year 1988 when the petitioner was a student taking education in Science stream. He was called for hearing on 6.12.1988, 24.1.1989, 16.2.1989 and 29.4.1989. He was supplied with various documents gathered by the Scrutiny Committee like birth register extract in respect

of his father Krishnarao. The father of the petitioner was born on 10.3.1948 and the caste of the grandfather Baliram, was recorded as “*Koshti*”. The father of the petitioner or the petitioner failed to explain these documents as to how the caste recorded was then altered from “*Koshti*” to “*Halba*”. Respondent No.1 – Caste Scrutiny Committee, by its reasoned order dated 29.4.1989, invalidated the tribes claim of the petitioner. The petitioner challenged that order in appeal before the Additional Commissioner, Tribal Development at Nagpur. The said Additional Commissioner, Nagpur, by its order dated 17.11.1990, remanded the matter back to respondent No.1 – Caste Scrutiny Committee. The petitioner did not remain present thereafter.

The petitioner procured another Caste Certificate on 7.7.1993 and thereafter got the employment as “*Halba*” (Scheduled Tribe)

candidate. That caste certificate and that employment is the subject matter of the present petition.

5. Shri Y.B. Mandpe, learned counsel for the petitioner, submits that as earlier caste claim is still pending before the Caste Scrutiny Committee, the petitioner is justified in approaching this Court for seeking expeditious disposal of his caste claim.

6. In writ petition filed before this Court, the petitioner has not disclosed the facts brought on record by respondent No.1 - Scrutiny Committee. The tribes certificate obtained by him in year 1993, documents gathered by the Scrutiny Committee which revealed caste as “*Koshti*” or then adverse order by the Scrutiny Committee dated 29.4.1989, are suppressed from this Court. Technically the said order was

set aside on 17.11.1990 and the matter was remanded back to the Additional Commissioner to the Scrutiny Committee. The documents which revealed caste as "*Koshti*" were within the knowledge of the petitioner. In the wake of that knowledge, the petitioner preferred not to participate in the proceedings after remand but proceed to obtain fresh tribes certificate. While obtaining that Caste Certificate, obviously, those old documents, which recorded caste as "*Koshti*" have been withheld by him.

7. We, therefore, find that while obtaining the Caste Certificate again on 7.7.1993, the petitioner was very much aware that his old records revealed caste as "*Koshti*". He misled that Authority and procured "*Halba*" certificate again. In a nut shell, we find that the petitioner has not approached this Court with clean hands.

8. In this situation, we are, therefore, not inclined to interfere in exercise of writ jurisdiction. Hence, the writ petition is dismissed. However, there shall be no order as to costs.

9. At this stage, Shri Y.B. Mandpe, learned counsel for the petitioner, points out that, since the petitioner is in service and the *interim* order granted on 28.10.2013 is operating, the same may be continued for a period of four weeks more.

Shri Abhijeet Deshpande, learned counsel for respondent No.1 – Caste Scrutiny Committee and Shri Anoop Parihar, learned counsel for respondent No.2 – employer oppose the request made by Shri Y.B. Mandpe, learned counsel for the petitioner.

However, in the interest of justice, we

continue *interim* order, granted on 28.10.2013,
for a period of four weeks more from today and
the same shall cease to operate automatically
thereafter.

JUDGE

JUDGE

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