

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5729 OF 2012

Sandeep s/o Vitthalrao Khire,
age: 34 years, Occ: service,
R/o Mamdabad,
Tq. & District Jalna.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

02 The Divisional Caste Certificate
Scrutiny & Verification Committee
No.1, Aurangabad Division,
Aurangabad.

03 The Education Officer (Secondary),
Zilla Parishad, Jalna, District Jalna.

04 The Saraswati Bhuvan Shikshan
Sanstha, Aurangabad, District
Aurangabad, through its Secretary.

Respondents

Mr.V.D.Gunale, advocate for the petitioner.

Mr.S.S.Dande, A.G.P. for Respondents No.1 to 3.

Mr.M.V.Golewar, advocate holding for Mr.A.R.Joshi, advocate for
Respondent No.4.

CORAM : R.M.BORDE &

A.I.S.CHEEMA, JJ.

DATE : 05th January, 2016

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Petitioner is objecting to the order passed by the Scrutiny Committee on 29.05.2012 directing invalidation of caste certificate issued in favour of the petitioner.

3 Petitioner claims to belong to 'Yellam' caste, which is included in Other Backward Class category. On the strength of the caste certificate issued in his favour, he has been appointed as *Shikshan Sevak* in Sarasvati Bhuvan Education Society's School as against a seat earmarked for reserved category. As such, caste certificate of the petitioner came to be referred to the Scrutiny Committee for verification and pursuant thereto, the Scrutiny Committee directed to conduct vigilance cell inquiry. After receipt of report of vigilance cell and on consideration of the documentary evidence produced by the petitioner, the Scrutiny Committee found that the evidence, produced by petitioner of the period post 1967, is not sufficient to substantiate his claim. The Committee has recorded in the order that the caste 'Yellam' is included in the Other Backward Class category in State of Maharashtra by Notification dated 13.10.1967 and as such, it was incumbent upon the petitioner to produce evidence, documentary or otherwise, of a period anterior to 1967.

4 The finding recorded by the Scrutiny Committee that caste Yellam is included in the Other Backward Class category in the State of Maharashtra vide Notification issued in 1967, is erroneous and the said caste has been included in the State List of

Maharashtra vide Notification No.12/2002/prakra.214/Mavak-4 dated 12th November, 2002 on the recommendation of the Maharashtra State Backward Classes Commission. The Scrutiny Committee has viewed the matter on erroneous assumption that Yellam caste is included in Other Backward Class category in the State of Maharashtra in 1967 and as such, expected the petitioner to tender evidence of a period pre-1967.

5 It is not a matter of dispute that the petitioner has produced evidence on record in the form of school leaving certificates of himself dated 02.07.1984, in respect of his cousin dated 22.08.1980, in respect of another cousin dated 20.06.1973 and also in respect of other cousin dated 22.08.1980. The entries in the school record of petitioner himself as well as his cousins are consistent indicating their caste as Yellam. The Vigilance Cell report also supports claim of the petitioner. There is no contra evidence placed on record to persuade the Committee to take any other different view. Since the Committee has proceeded on erroneous assumption and treated the cut off date as 13.10.1967, wrong conclusion has been drawn, which has resulted in denial of justice to the petitioner.

6 According to us, evidence placed on record by the petitioner, which is of the period prior to 2002, is sufficient to substantiate his claim, apart from the fact that vigilance cell report also supports claim of the petitioner. The decision rendered by the Scrutiny Committee is erroneous and deserves to be quashed and set aside and same is accordingly quashed and set aside. The Scrutiny Committee shall issue validity certificate,

validating the caste certificate issued in favour of the petitioner by the competent authority, as expeditiously as possible, preferably within a period of two months from today.

7 Rule is accordingly made absolute. There shall be no order as to costs.

A.I.S.CHEEMA
JUDGE

adb/wp572912

R.M.BORDE
JUDGE