

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

WRIT PETITION NO. 2153 OF 2016

Chandrabhan Harishchandra Parate

-vs-

The State of Maha., Thr.its Secretary, Department Revenue and Forest and others

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

Court's or Judge's Orders.

 Mr.S.P.Bhandarkar, counsel for the petitioner.
 Mr.N.R.Patil, AGP for the respondent Nos.1 to 3.
 Mr.V.M.Kulsange, counsel for the caveator.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : 06.04.2016.

By this writ petition, the petitioner impugns the order of the Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur, dated 01/02/2016 invalidating the claim of the petitioner of belonging to Halba Scheduled Tribe.

The petitioner was selected and appointed as an Executive Magistrate through the Maharashtra Public Service Commission on a post reserved for the Scheduled Tribes. The petitioner claimed to belong to Halba Scheduled Tribe. Several complaints were received by the Committee against the petitioner in the year 1998 that the petitioner does not belong to Halba Scheduled Tribe and he had fraudulently secured the employment on the basis of a false caste certificate. The petitioner applied to the Deputy Collector, Nagpur for a certificate that he belongs to Koshti caste, that is included in the Special Backward Classes and the said caste certificate was validated by the Scrutiny Committee. The petitioner filed a writ petition bearing Writ Petition No.6029 of 2012. In the said writ petition, the petitioner had given up his claim of belonging to Koshti caste which falls in the Special Backward Classes and had sought a direction to the Scrutiny

Committee to decide the claim of the petitioner of belonging to Halba Scheduled Tribe. The said writ petition was allowed and the matter was remanded to the Scrutiny Committee to grant an opportunity of hearing to the petitioner and decide the claim of the petitioner of belonging to Halba Scheduled Tribe within a time frame. It was made clear by this Court in the said judgment that in the event the petitioner's claim of belonging to Halba Scheduled Tribe is rejected, the petitioner will not be entitled to again claim to belong to Koshti caste that falls in the Special Backward Classes. After the remand of the matter, the Scrutiny Committee has invalidated the caste claim of the petitioner, by the impugned order.

It is submitted on behalf of the petitioner that though the petitioner had failed to prove his caste claim on the basis of the documents, the Scrutiny Committee could have validated the caste certificate of the petitioner on the basis of the affinity test. It is stated that it is not observed by the Scrutiny Committee in the impugned order that the petitioner failed to prove his affinity to Halba Scheduled Tribe. It is stated that the petitioner cannot be held to be caste less. It is stated that Koshti is not a caste and hence the Scrutiny Committee, while invalidating the claim of the petitioner of belonging to Halba Scheduled Tribe ought to have declared to which caste the petitioner actually belongs. It is stated though in several documents pertaining to the near relatives of the petitioner, "Koshti" is recorded in the caste column, the Scrutiny Committee could not have invalidated the caste claim of the petitioner, as Koshti is not a caste, but "Koshti" is referable to the profession of weaving. The learned counsel for the petitioner relied on the judgment, reported in AIR 1985 Bom 45 (Abhay Shrawanji Parate v. State of Maharashtra and others) to substantiate his submission.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the Scrutiny Committee was justified in invalidating the claim of the petitioner of belonging

to Halba Scheduled Tribe. The documents pertaining to the near relatives of the petitioner clearly recorded the caste 'Koshti' in the caste column. The documents relate to the real paternal uncles of the petitioner, the father of the petitioner and the other near relatives of the petitioner and pertain to the period from 1916-17, 1918, 1920, 1923, 1926-27, 1928 and 1943. The Scrutiny Committee rightly relied on the old documents of the Pre-Independence Era that have great probative value to hold that the petitioner failed to prove that he belongs to Halba Scheduled Tribe, on the basis of the documents. The submission made on behalf of the petitioner that since "Koshti" means "weaving" and weaving is a profession, the entries in the said documents pertain only to the profession of his near relatives is ill founded and is liable to be rejected. We find on a reading of the documents that in the caste column the caste is mentioned as "Koshti" and in the occupation column in some of the documents, "Weaving" and "self business" is mentioned. On a proper appreciation of the documents on record, the Scrutiny Committee rightly came to a conclusion that the petitioner failed to prove his caste claim on the basis of the documentary evidence. The Scrutiny Committee also observed that the petitioner did not prove his affinity to Halba Scheduled Tribe. The statements recorded by the Vigilance Cell further proved that the claim of the petitioner of belonging to Halba Scheduled Tribe was not *bona fide*. The Scrutiny Committee, on an appreciation of the material on record, recorded a finding of fact that the caste certificate that was referred to the Scrutiny Committee for verification was not proved an authentic certificate, as the name of the petitioner did not appear in the register maintained by the Tahsildar. The Scrutiny Committee also found that the petitioner had claimed to belong to Koshti caste, that is included in the Special Backward Classes and had secured a certificate to that effect in the year 2011. The Scrutiny Committee further found that the caste certificate of the petitioner of belonging to Koshti, Special Backward Class was validated

by the Scrutiny Committee, but for the reasons best known to the petitioner, the petitioner gave up the said caste certificate and the validity certificate and sought a direction to the Scrutiny Committee to re-decide the claim of the petitioner of belonging to Halba Scheduled Tribe. The caste claim of the petitioner is not substantiated by the petitioner on the basis of the documents or the affinity test. The order of the Scrutiny Committee appears to be just and proper. The conduct of the petitioner in approaching the Committee on a couple of occasions with a claim to belong to different castes and tribes cannot be appreciated. We do not find any illegality in the finding of the Committee that the caste certificate tendered by the petitioner is fake.

The case of the petitioner that it would be necessary for the Scrutiny Committee to give a declaration of the caste to which the petitioner actually belongs is not well founded. The Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 and the Rules framed there under do not enjoin a duty on the Scrutiny Committee to declare the actual caste to which a person belongs. The Scrutiny Committee is only enjoined with a duty to verify the caste claim of a claimant on the basis of the certificate that is tendered for verification and also consider whether the certificate is genuine.

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

JUDGE

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