

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1589 OF 2017

Akshay Prabhakar Yelpale,
Aged about 24 years, Occ: Service,
R/o Ajnale, Tal. Sangola,
District: Solapur.

.... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary, Social
Justice Department, Mantralaya,
Mumbai.
2. Member Secretary and Research
Officer, Divisional Caste Certificate
Scrutiny Samiti No.1, Solapur.
3. Commandant,
State Reserve Police Force,
GR-11, Navi Mumbai,
Camp Balegaon, District
Thane.

.... Respondents

Mr. Machhindra A. Patil for the Petitioner.

Ms Sushma Bhende, Asstt. Government Pleader,
for Respondent Nos.1 and 2.

**CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

DATE : FEBRUARY 27, 2017

ORAL ORDER (Per Shri S.C. DHARMADHIKARI, J.):

1. This writ petition challenges the order passed by the Scrutiny Committee (respondent No.2) dated 21-11-2016 refusing to issue a Caste Validity Certificate.

2. The petitioner claims to be “Yellamalvar”, recognised as a Scheduled Caste by the State of Maharashtra.

3. The petitioner submits that he and his family reside permanently at Village Ajnale, Taluka Sangola, District Solapur. The petitioner joined the third respondent's services as a Police Constable. The petitioner produced his Caste Certificate because he was appointed against a reserved seat. The other documents are also filed. The Caste Certificate was forwarded to the second respondent-Committee for scrutiny and verification of the claim of the petitioner as belonging to Yellamalvar Community, a Scheduled Caste. The Police Inspector, Vigilance Squad recorded

the statement of the concerned persons in the village. He also collected evidence from the area. On the basis of the report of the Vigilance Cell which stated that the claims of the petitioner are duly verified and are acceptable that the petitioner proceeded to argue his case before the Committee.

4. The petitioner does not dispute that the report of the Vigilance Cell is not binding on the Committee. If it wants to deviate or depart from its contents, it has to issue a show cause notice to the applicant/candidate and call for his remarks on the same. Accordingly, a show cause notice was issued and the petitioner was directed to furnish his explanation in regard to the contents of the report of the Vigilance Cell.

5. The petitioner submits before us that he has produced an affidavit along with other documents. It is undisputed, for the first time before us, that the petitioner has produced an affidavit stated to be that of Prabhakar Bhimrao Yelpale, the father of the petitioner. The said Prabhakar states that his son is relying upon a Caste Certificate, dated 5-5-2005,

issued by the Sub-Divisional Magistrate, Pandharpur Division, Pandharpur. That certifies the petitioner as belonging to “Hindu Ellamalvar” Community, a Scheduled Caste. The petitioner is the son of Prabhakar Yelpale. Prabhakar claims that his grandfather Anyaba Yedu Yelpale had two sons - Bhimrao and Shyamrao. Bhimrao, in turn, had two sons - Prabhakar and Janardhan. The son of Janardhan, Swapnil, applied for a Caste Certificate and he was issued the same. The Caste Certificate was forwarded for scrutiny and verification of the second respondent-Committee and it has issued a Caste Validity Certificate, copy of which is at page 56 of the paper-book.

6. Therefore, in the light of the above, Mr. Patil, learned counsel appearing for the petitioner, would submit that Yelpale is a common surname. The claim of the petitioner is not false or fraudulent. The claim is genuine. If one more opportunity is given to prove the claim, it would be then for the petitioner to establish and prove it. It is only because of non-familiarity with the procedure of the Scrutiny Committee and the legal provisions that a vital document, namely, the

certified copy of the Caste Validity Certificate issued to Swapnil and the materials establishing the relationship could not be produced. A remand, therefore, be ordered is the contention of Mr. Patil.

7. In order to verify the correctness of the submissions of Mr. Patil and particularly the alternate submission seeking a remand, we called for the original documents and records. The original records would indicate that the petitioner obtained employment against a reserved seat. While stating about his Caste/Tribe, he stated that he belongs to Yellamalvar, a Scheduled Caste. He relies upon the Caste Certificate issued by the Sub-Divisional Magistrate in his favour. Once the Caste Certificate was forwarded for scrutiny and verification of the claim, it is evident that in the Caste Certificate the name of the Caste is mentioned as “Ellamalvar (SC-20)”, which is recognised as a Scheduled Caste. When the Committee found that this is a doubtful claim and based on a School Leaving Certificate issued in favour of the petitioner, it also ascertained some details from the original records (the School's General Register). In the

School's General Register, the petitioner's name appears at serial No.993. His surname is Yelpale. He claims to be belonging to Hindu Yellamalvar, a Scheduled Caste. However, the entry in relation thereto is not supported by any other documents. A document submitted by the petitioner's father, styled as Leaving Certificate, issued by the Principal of Institute of Civil & Rural Engineering, Shri Mouni Vidyapeeth, Muralidhar Nagar, Gargoti, District Kolhapur also was one of the vital documents placed on record. However, the Committee relied upon the entry as against the caste column and appearing at serial No.28. That register was obtained from the Zilla Parishad's Primary School, Ajnale, Taluka Sangola, District Solapur. Thus, the petitioner's father claims to be residing, and so also the petitioner, in Village Ajnale, Taluka Sangola, District Solapur. As against the petitioner's father's name the details as far as the Caste is concerned, it is written as Hindu Yellamalvar. The Committee relied upon this entry as also the entry in the School Leaving Certificate of the same Zilla Parishad's Primary School in the case of one Shyamrao Anyaba Yelpale. Pertinently, Shyamrao is

stated to be the son of Anyaba. Anyaba had two sons – Bhimrao and Shyamrao. It is only Bhimrao's branch and other than the petitioner's father and the petitioner which claims to be having in its possession a Caste Validity Certificate. That was, according to the petitioner, issued to Swapnil Janardhan Yelpale.

8. However, we find that even if that had been produced and as contended by Mr. Patil, it would have made no difference. There is no material on record to explain as to how only one branch of the family was able to obtain a certificate styled as Caste Validity Certificate, issued in favour of Swapnil. Swapnil belongs to another branch, namely, Shyamrao Anyaba Yelpale. However, even in Shyamrao's case the School Leaving Certificate and a copy of which was produced before the Committee, the report of the Vigilance Cell indicated that his Caste in the School Leaving Certificate is mentioned as Hindu Yellamalvar. In fact it is Yellamalvar simpliciter and Shyamrao has been certified as belonging to “Yelmar”. If that has not been described as a Scheduled Caste, then, it is inconceivable that any other person from the same family could validly claim to be

belonging to Hindu Yellamalvar, a Scheduled Caste.

9. We find that no useful purpose will be served because even the affidavit now filed is part of the original records of the Scrutiny Committee (page 61). Thus, there was a clear allegation in the show cause notice by the Committee that the petitioner's claim as belonging to Yellamalvar, a Scheduled Caste, is not found to be genuine and *bona fide*. In fact it is doubtful. The Committee has explained in its tentative conclusion and its *prima facie* view has emerged from the show cause notice, dated 26-11-2015. It has explained that Hindu Yellamalvar is a Scheduled Tribe. They are a special caste. There is another caste mentioned as Scheduled Caste along with Yellamalvar which is Yellamlavandalu. However, both do not have any sub-caste. There is no entry which would indicate that Yellamalvar is a Scheduled Caste and therefore a sub-caste of Yelmar. The Committee cautioned that because the petitioner has relied upon documents pertaining to his father and uncle, it would be fair and just that he establishes and prove the contents thereof by independent evidence. The Committee pointed out

that there is a pre-constitutional document which has been produced and which would establish and prove that the petitioner belongs to Yelmar, a Scheduled Caste.

10. On 16-1-2016, the petitioner furnished through his father a reply to this show cause notice. It has been admitted therein that the ancestors were uneducated, they found it difficult to pronounce the word, Yellamalvar. That is why they coined a name called Yelmar and which was convenient to pronounce. It is rather another description of the same caste. That is why in the school records of the grandfather and cousin grandfather of the petitioner, by mistake, the coined word Yelmar has been inserted in the caste column. It is admitted that in the List of Scheduled Castes in the State of Maharashtra there is no entry like Yelmar. However, it is another name of the same Scheduled Caste was the submission. That was the consistent stand and taken by the petitioner's father in the reply to the show cause notice. Thus, it is an admitted position that the petitioner does not have any record in his possession which would establish that there was a mistake in the School Register

and pertaining to the petitioner's father and his grandfather/cousin grandfather. It is only in the case of the petitioner that the entry in the caste column as Hindu Yellamalvar appears and that is not a co-incidence. The Committee has, therefore, rightly observed in the impugned order that a systematic attempt has been made to reap and obtain all the benefits of the Scheduled Tribe, though not belonging to it. It is on the strength of such a false claim that the appointment order in the Central Reserve Police Force as a Police Constable was obtained by the petitioner.

11. In such cases any lenient or liberal view would not subserve public interest but would defeat it. The larger public interest as also the requirement of protecting genuine and *bona fide* claims requires the rejection of the alternate argument. The overwhelming documentary evidence on record clearly shows that there is no truth or substance in the petitioner's claim. The petitioner's claim has rightly been rejected and by discarding all the documents produced by him.

12. We are not sitting in judgment and particularly as an Appellate Authority over the Scrutiny Committee's findings and observations. Once they are consistent with the materials on record and cannot be termed as perverse, then, we cannot allow this writ petition. It is, therefore, dismissed. It is only because the petitioner has been persuaded by none other than his own father to rely on some documents and other materials, which have been found to be wholly unacceptable, that we do not impose costs on the petitioner. Else we would have been justified in doing so.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)