

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.2321 OF 2016

Omprakash s/o Narsayya Shrilele,
Age 49 years, Occu. Service,
R/o Golandaj Gali, Gadipura,
Hingoli

..Petitioner

Versus

1. The State of Maharashtra,
Principal Secretary, Social
Welfare, Mantralaya,
Mumbai 32
2. Scrutiny Committee for
Schedule Caste, VJNT, OBC,
SBC, Latur Division, Latur
3. Sub-Divisional Officer, Latur

..Respondents

Mr Suresh M.Kulkarni, Advocate for petitioner
Mr V.S. Badakh, A.G.P. for respondents

**CORAM : R.M. BORDE AND
A.M. DHAVALA, JJ.**

DATE : 18th July 2018

ORAL JUDGMENT (Per A.M. Dhavale, J.)

1. Rule. Rule returnable forthwith. With the consent of parties, matter is heard finally at admission stage.
2. The petitioner assails the judgment of respondent no.2 - Scrutiny Committee, Latur dated 7.10.2015 whereby the petitioner's claim for validity of caste certificate as 'Telangi - NT-C' was rejected and claims writ of mandamus to quash and set aside it.
3. Learned Advocate Mr Kulkarni submitted that the petitioner has produced (1) old sale deed dated 20.2.1953 along with affidavit of the

vendor, (2) the service record showing his cousin's caste as 'Telangi' recorded in the record of South Central Railway, (3) school leaving certificate of cousin Digamber dated 2.7.1960, (4) caste certificate of petitioner's wife Chhaya dated 7.3.1994, (5) school certificate of cousin Navlayya of 1946 and 17.6.1948 to submit that these documents disclose the caste of the petitioner as 'Telangi - NT-C' and these documents should have been relied upon. He relied on **Ankita Rathor Vs. State of Maharashtra, 2009 (3) Mh.L.J. 396** to submit that difference in the caste noted in the school record is not fatal to the caste claim of the petitioner, hence, the impugned order be set aside and the Committee be directed to issue validity certificate to the petitioner.

4. Per contra, learned A.G.P. Mr Badakh submitted that the petitioner had initially claimed that he was belonging to Mannervarlu but his claim was contradictory to school record, wherein his caste was recorded as 'Hindi - Harijan'. Thereafter, he took a summersault and took the stand that he belongs to Telangi - NT-C. The petitioner has no regards for the truth and is making false claims. He has obtained certificates by showing himself to be belonging to Mannervarlu - Scheduled Tribe. It is not permissible for him to claim that he belongs to Telangi caste. The Scrutiny Committee has rightly appreciated the contradictory record and rightly rejected the claim of the petitioner. No fault can be found with the process of reasoning and arrival at the finding by the Committee. Hence, no interference is called for.

5. The only question for our consideration is, 'Whether the Scrutiny Committee has not followed proper process while rejecting the validity

claim of the petitioner as belonging to Telangi - NT-C category ?' We answer it in the negative.

- REASONS -

6. The record shows and the Committee has observed that the petitioner had taken admission in primary school at Hingoli on 1.6.1972 wherein his caste was recorded as 'Hindu-Harijan'.

7. The school record of petitioner's brother Danayya (dated 21.6.1956), brother Baban (dated 6.12.1956), brother Shivcharan (dated 24.6.1964) disclose that their caste was not recorded. It was recorded that they belong to Hindu religion.

8. The petitioner obtained caste certificate on 24.12.1991 from Executive Magistrate, Hingoli to show that he belongs to Mannervarlu - S.T.

9. The caste certificate of the petitioner's wife Chhaya dated 7.3.1994 cannot be relied upon in the validity proceedings of the caste of the husband, as she is not paternal relative of the petitioner and her certificate is recent and based on prima facie material.

10. The copy of sale deed dated 20th February 1953 shows that the petitioner's father purchased one house from Maunabai Mohiyoddin, wherein his caste was recorded as 'Telanga Gawandi'. This is a private document in Urdu. Original sale deed in spite of directions was not produced. It is not known on what basis the caste was recorded herein as 'Telanga Gawandi' (and not 'Telangi dhanganr') in

this sale deed.

11. The Committee observed that the old school record of real brothers of the petitioner did not disclose that they belong to 'Telangi dhangar' caste. Caste Telangi Dhangar was incorporated in the category of NT - C on 21.11.1961 and the Committee has found that no evidence was produced by the petitioner prior to the said date to accept the claim of the petitioner.

12. In Ankita Rathor's case, relied upon by the petitioner, she had claimed that she belongs to Thakur - S.T. She had relied on caste validity certificate issued in favour of her uncle. Her caste was recorded as 'Rajput Bhamta' in school record. Hence, her claim for caste certificate was rejected by the competent authority and the appeal therefrom was rejected by the Scrutiny committee. This Court observed that caste certificate is required to be issued on the basis of prima facie material and the competent authority while issuing the certificate does not decide the issue finally. Thus, the parameters for issuance of caste certificate are quite different as compared to the issue of deciding the validity of caste claim. Therefore, this ruling will not be applicable to the facts of the present case.

13. The school leaving certificate of Digambar showing date of admission as 2.7.1960 is not helpful as Surname of Digambar is 'Siraskar' whereas the petitioner's surname is 'Shrilele'.

14. We find that the petitioner has no regards for the truth and he has made different claims at different times. His caste was recorded

as 'Hindu Harijan' in his school record. Thereafter, he obtained caste certificate as Mannervarlu - Scheduled Tribe for securing job and thereafter, he is claiming that he belongs to 'Telangi Dhangar' caste. We notice that there is contradictory stand taken by the petitioner at different stages. The previous school record of his brothers do not disclose that they belong to any reserved caste. Mere self serving entry in old sale deed will not be sufficient to prove the validity claim. The petitioner has not examined himself or any person to explain the situation. It is held by Apex Court in **Ayaaubkhan Noorkhan Pathan vs State Of Maharashtra, (2013) 4 SCC 465** that mere filing of affidavit is not sufficient. It is well settled that burden is on the petitioner to prove that he belongs to a particular tribe as per his claim.

15. In view of this, we find absolutely no error in the rejection of the petitioner's claim by the Scrutiny Committee.

16. Hence, the petition stands dismissed. The consequences shall follow.

17. Rule stands discharged.

(**A.M. DHAVALE, J.**)

(**R.M. BORDE, J.**)