

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

WRIT PETITION NO. 2923 OF 2014

Subhash Brijlal Kawal

.. Petitioner

Versus

Executive Engineer Tapi Jal Vidyut

and Upasa Sinchan Vibhag and others .. Respondents

Shri M. S. Deshmukh, Advocate h/f Shri Sagar S. Phatale,
Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 08TH MARCH, 2018.

FINAL ORDER :

. The caste claim of the petitioner as belonging to Rajput Bhamta (Vimukta Jati) is invalidated. Aggrieved thereby present petition.

2. Mr. Deshmukh, the learned advocate for the petitioner submits that, the Committee has not considered the documents on record. The validity certificate is issued in favour of the cousin nephew of the petitioner. The school record of the petitioner, his brother and sister records the caste as Rajput Bhamta. The Committee has not discussed any evidence. It has

also not considered as to how the entry of Pardeshi Bhamta in one of the document would affect overwhelming evidence of Rajput Bhamta. According to the learned counsel, when the real nephew of the petitioner has been granted the validity certificate, no further enquiry was necessary. The learned advocate relies on Rule 16 of the Maharashtra Scheduled Castes, 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 (as amended on 24.11.2017). The learned counsel submits that, even vigilance report is in favour of the petitioner.

3. The learned Assistant Government Pleader submits that, the cousin nephew of the petitioner Deelip Padmsing Kawal was granted validity on the basis of validity of Rajendra Hiralal Kawal. In the said proceedings the record shows the caste being recorded as Pardeshi Bhamta of his father and the said evidence was not considered. The learned A. G. P. further submits that, evidence prior to 1961 has not been produced.

4. With the assistance of learned counsel for parties, we have gone through the record and the judgment.

5. The judgment nowhere depicts that the Committee has considered relevancy of various documents produced before it. It

has also not considered validity in favour of Deelip Padmasing Kawal, the cousin nephew of the petitioner. To prove the genealogy produced, the learned advocate for the petitioner relied on the judgment and order delivered by the Extra Additional Sessions Judge, Akola Camp - Buldhana in Sessions Trial No. 32 of 1956, wherein the genealogy is reproduced.

6. The Committee was required to consider the vigilance report, so also was required to consider the validity issued in favour of Deelip Padmasing Kawal and if had to arrive at a different conclusion then, should have given reasons for not accepting validity in favour of real cousin nephew of the petitioner.

7. As the aforesaid has not been done, we set aside the judgment of the Committee and relegate the petitioner before the Committee. The petitioner shall appear before the Committee on 22.03.2018. The committee shall decide the proceeding afresh, in the light of the observations made above. The petitioner may bring it to the notice of the Committee the amended Rule 16 as referred to supra. The Committee shall decide the proceeding expeditiously and preferably within a period of six (06) months from the date of appearance of the petitioner.

8. It appears that, on invalidation of the tribe claim of the

petitioner, the petitioner was terminated. As the judgment and order of the Committee is now set aside, we set aside the termination of the petitioner. The respondent No. 1 shall reinstate the petitioner within fifteen (15) days from today. The petitioner shall not be entitled for backwages from the date of termination till the date of reinstatement. However, the said period shall be counted for continuity in service. The respondent No. 1/employer may take further course of action depending upon the judgment that would be delivered by the Committee in the validation proceeding. The writ petition is accordingly allowed. No costs.

[A. M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 18