

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6724 OF 2010

Shri Mohan Bapu Kale

... Petitioner

Vs

1 Deputy Director & Member Secretary,
The Scheduled Tribe Certificate
Scrutiny Committee, Pune Region,
Pune, & Ors.

... Respondents

Mr. Priyal G. Sarda for the Petitioner.

Mr. V.M. Mali, AGP, for the Respondent Nos.1 to 3-State.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

THURSDAY, 13TH DECEMBER, 2018

P.C. :

1 The petitioner has challenged the order passed on 29th April, 2009, of the second respondent – Committee. The second respondent – Committee invalidated the caste certificate dated 20th April, 2007, relied upon by the petitioner. The Committee held that the petitioner has not established and proved that he belongs to the reserved category, particularly ‘Pardhi Scheduled Tribe’.

2 Mr. Sarda appearing in support of this petition would submit that the petitioner produced numerous documents and one of which was the caste certificate in respect of the petitioner's father, issued way back on 15th September, 1993, wherein the caste/tribe is shown as 'Pardhi'. There are some other documents, including the copy of the caste validity certificate issued to Vanraj Sitaram Kale, the cousin uncle of the petitioner from the paternal side.

3 However, the Committee has discarded this relevant and germane document by assigning virtually no reasons in the complaint. Thus, it is clear that the description "Haran Shikari" is not the name of the listed Scheduled Tribe is the conclusion reached by the Committee. However, that is erroneous for that is an activity or occupation attributable to the community itself. Hence, on that ground the claim could not have been invalidated.

4 We have perused the petition and the Annexures thereto, including the impugned order. It is evident that the Committee found that the School record insofar as the

petitioner's blood relatives and particularly one Sitaram Kanhaiya shows that he was admitted to the School on 1st July, 1933. His caste is recorded as Haran Shikari. Then, there is a statement recorded of one Bapu Tolaji Kale, the father of the petitioner. This also goes to show that the claim of the petitioner is not reliable and trustworthy.

5 The Committee has referred to all the documents and arrived at the conclusion that in the oldest record, the caste / tribe of the petitioner's cousin grandfather is recorded as Haran Shikari. Being the oldest document, it would have more probative value. Then, the Research Officer attached to the Vigilance Cell, who had visited the home and made inquiries found that the information given by the petitioner's father regarding traits, characteristics, customs and traditions does not accord with the Pardhi Scheduled Tribe. The Vigilance Cell report was also brought to the notice of the petitioner. The petitioner did not give any explanation with regard to the above noted findings. The Committee also heard the petitioner's father, but he failed to explain as to how Haran Shikari could be entered as a caste in the documents as old as of 1933 and 1935. The complaint is that the

petitioner's cousin uncle was given a certificate of validity. It is stated that the name of this cousin uncle is Vanraj Sitaram Kale. In that regard, we have carefully perused the family tree, copy of which is at page 38 of the paper-book. The name of Raghoba Kale as the common ancestor appears therein. He had two sons Kanhaiya and Mohan. Kanhaiya, in turn, had two sons Sitaram and Shankar whereas Mohan had one son Tolaji. Vanraj is one of the sons of Sitaram and the present petitioner is Bapu Kale's son known as Mohan Bapu Kale. From a copy of this genealogy / family tree, it is evident that the petitioner cannot be said to be from the Branch of Kanhaiya and Sitaram. He is rather from the Branch of Mohan, the other son of Raghoba. Mohan had one son Tolaji and Tolaji's son is Bapu. The petitioner is Bapu's son. Thus, Vanraj is from the Branch of Kanhaiya and is a cousin from the paternal side. However, Vanraj may have been issued a caste validity certificate, but once the Committee found that the entries in relation to Sitaram Kale, the father of Vanraj particularly in the caste column pertaining to the School admission does not contain the name 'Pardhi', but 'Haran Shikari', then, an explanation was sought and rightly about this discrepancy. The petitioner's father is supposed to have appeared

before the Committee. He had an opportunity to explain this discrepancy or difference. However, we find that copies of each of the documents produced before the Committee, have been annexed to this petition. However, once the statement of the petitioner's father was recorded in relation to the traits, characteristics and customs of Pardhi community, his version was not consistent therewith at all. This course was adopted because the Committee found that the caste validity certificate issued to Vanraj has no probative value. It has lost its probative value because Vanraj is the son of Sitaram and there is a clear misrepresentation for the documents in relation to Sitaram contains an entry in the caste/tribe column as 'Haran Shikari'. No explanation has been forthcoming from the family in relation to this at all. The Research Officer, therefore, rightly commented that in the home inquiry, the petitioner's father has not given any information which would tally with the traits, characteristics, customs and traditions peculiar to Pardhi community. Thus, on appreciation and appraisal of the oral and documentary evidence, the Committee has recorded the finding of fact that no reliance can be placed on the caste validity certificate issued to Vanraj.

6 A copy of the statement of the petitioner's father, given in writing, is at page 35 of the paper-book. He has admitted that the petitioner is his son and the cousin brother or cousin nephew is Vanraj. The petitioner's father gave a statement on 25th June, 2008. That statement was given also when home inquiry was made while scrutinising the claim of Vanraj. The Committee thought it fit to verify and scrutinise that claim very carefully. Yet, what missed the attention of the Committee at that time was that the father of the present petitioner gave a common version. He said that his grandfather is Raghoba, but he does not have any information in relation to the said Raghoba. He also did not possess any information about the education or lack of it of Raghoba. He also does not have any information in relation to the immovable property of Raghoba. All that he said was that the said Raghoba had two sons, Kanhaiya and Mohan. Pertinently, there is no information with Bapu, the father of the petitioner, in relation to Mohan Kale, the grandfather. Thus, the petitioner, claiming to be belonging to the Branch of Mohan, does not know anything about Mohan and his grandfather Tolaji. All that Bapu Kale, the father of the petitioner says is that he has no information or knowledge about the birth and death of Kanhaiya

Kale or his education, but still maintains that Kanhaiya was carrying on the occupation of hunting and was a farm labour. This information has no evidenciary value for it is not corroborated, rather it is falsified by the further admission of Bapu Kale that he does not know where the said Kanhaiya resided or what property he was possessed of. Pertinently, this is the version also in relation to the grandfather of the petitioner and father of Bapu Kale. Bapu says that his father is Tolaji Mohan Kale, but when he was born, when he died, he has no information at all. He says that Tolaji died approximately in the year 1990. Now, even if Tolaji was uneducated, still, it is inconceivable that the father of the petitioner does not know anything about the grandfather of the petitioner's birth, his occupation and still gives a statement that he was a farm labour, then, the Committee was right in saying that this is a completely doubtful and questionable version and that is unbelievable.

7 Pertinently, in the statement of Bapu, there is admission that Sitaram Kanhaiya Kale is his cousin. He was born on 7th March, 1924 at Barshi. He was admitted to the Primary School, namely, Savitribai Phule School at Solapur. Though it is

claimed that Sitaram was a farm labour, yet it is admitted that he had sons and daughters one of whom was Vanraj. Bapu could not give any definite information about the traits, characteristics or the traditional occupation of Pardhi community. It is in these circumstances and by referring to Bapu's version that the Committee finds that Sitaram kale was one of the members of the family. He seems to be educated. At least he was admitted in a Primary School and while giving information at the time of admission to the School, the entry in the caste column is 'Haran Shikari'. This entry is not of any caste or tribe and which is in the Schedule. If this is the nature of the documentary evidence, then, the Committee committed no error in disbelieving the version of the petitioner and his family. None of the traits and characteristics as narrated by Bapu Kale tallied with the Pardhi community, though it is claimed that Bapu and his children are Hindu Pardhis.

8 We have referred to these materials once again only to satisfy ourselves whether there is any substance in the contentions of Mr. Sarda that the impugned order is perverse. We find no perversity in the order under challenge nor we find it to be

vitiated by non application of mind or legal errors warranting our interference in writ jurisdiction.

9 The writ petition has no merit and is dismissed, but without any order as to costs.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.