

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1117 OF 2014

Kranti-Prakash Kolalle,
Age : 46 years, Occu. Service
as Lineman with M.S.E.B.,
R/o Plot No.45, Shivpuri Colony,
Padegaon, Taluka and
District Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
through the Ministry of
Social Welfare Department,
Mantralaya, Mumbai-32
2. The Collector,
Aurangabad
3. The Sub Divisional Officer
(Revenue), Aurangabad
4. The Tahsildar,
Aurangabad
5. The Scheduled Tribe Scrutiny
Committee, Aurangabad
6. The Executive Engineer,
M.S.E.B., Aurangabad,
Rural Area, Daulatabad,
Taluka and District Aurangabad

RESPONDENTS

Mr. Patel Shaikh Ashpak Taher, Advocate for
the petitioner

Mr. A.V. Deshmukh, A.P.P. for respondent Nos.1 to
4/State

Mr. K.D. Bade-Patil, Advocate for respondent No.5

Mr. G.R. Syed, Advocate holding for Mr. Dhananjay

P. Deshpande, Advocate for respondent No.6

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATE : 21st FEBRUARY, 2019

JUDGMENT (PER : SUNIL K. KOTWAL) :

Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, heard finally.

2. By filing this Writ Petition, the petitioner has challenged the order dated 11th May, 2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad – respondent No.5 herein, invalidating Scheduled Tribe Certificate, issued by the Executive Magistrate, Aurangabad on 21st September, 1990 in favour of the petitioner.

3. Heard Shri Patek Shaikh Ashpak Taher, learned counsel for the petitioner, Shri A.V. Deshmukh, learned A.G.P. for respondent Nos.1 to 4, Shri K.D. Bade-Patil, learned counsel for respondent No.5 and Shri G.R. Syed, learned counsel holding for Shri Dhananjay P. Deshpande, Advocate for respondent No.6.

4. Learned counsel for the petitioner assailed the order passed by respondent No. 5 Scrutiny Committee on the ground that opportunity of hearing was not given to the petitioner when he appeared before the Scrutiny Committee after receipt of notice and copy of Vigilance Cell report. He submits that petitioner sought time for filing of the documents and that prayer was not considered by the Scrutiny Committee.

5. Next contention of learned counsel for the petitioner is that in his school leaving certificate, his caste is mentioned as Mannerwarlu, which falls in the category of Scheduled Tribe. He prays for remand of the matter to the Scrutiny Committee for re-consideration.

6. Learned A.G.P. has drawn our attention towards original record of the Scrutiny Committee and pointed out that despite number of letters to the petitioner, she did not cooperate the Vigilance Officer and the Scrutiny Committee, during the enquiry. Learned A.G.P. submits that even the school leaving certificate, relied on by the petitioner, is false document as Headmistress of Christ Church High School, Cantonment, Aurangabad has

written remark on the school leaving certificate that the said certificate was not issued by that school. He has also pointed out that even the general register number of the school mentioned in the school leaving certificate is incorrect, as informed by the Headmistress of that school under letter dated 21st June, 2005. The learned A.G.P. has drawn our attention towards the Vigilance Cell report.

7. Under Rule 12 (8) of the Maharashtra Scheduled Tribe (Regulations and Issuance of Verification of) Certificate Rules, 2003, the procedure is prescribed. On the basis of Vigilance Cell report and other documents available on record, the Scrutiny Committee is not satisfied about claim of the applicant, notice is to be served to the applicant along with copy of the report of Vigilance Officer and his reply is to be obtained and after hearing applicant, his tribe claim can be decided. In the case at hand, in support of his claim, the petitioner has relied on school leaving certificate issued by the Headmistress, Christ Church High School, Cantonment, Aurangabad, which shows his caste as Mannerwarlu. However, during enquiry by the Vigilance Officer into genuineness of the school leaving

certificate, the Headmistress of that school has made remark on the school leaving certificate that the said certificate was not issued by her school and the certificate No.1711 is not entered in the record of the school. In the letter dated 21st June, 2005, the Headmistress has also informed the Scrutiny Committee that the register No.5689A mentioned in the school leaving certificate does not pertain to Christ Church High School, Cantonment, Aurangabad as the said school was established in the year 1875 and register No.5689A is not given to that school. Thus, the remark of the Headmistress and her subsequent letter to the Scrutiny Committee are sufficient to hold that the school leaving certificate relied on by the petitioner is false and bogus document.

8. The record also shows that on 21st December, 2001, the petitioner informed the Executive Engineer, M.S.E.B., Aurangabad that his father was in the Army services and he was unable to file record in respect of his father. The petitioner has only filed his caste certificate issued by the Executive Magistrate, Aurangabad, showing his caste as Mannerwarlu Scheduled Tribe. However, this certificate is not validated by

the Scrutiny Committee and it is useless piece of evidence. The petitioner has also filed caste certificate of one Rakesh Madhusudan Kolalle, whose caste is shown as Mannerwarlu tribe. However, in the statement recorded by the Vigilance Officer, the petitioner has not made it clear whether said Rakesh Madhusudan Kolalle is his close relative and what is the exact relation. Therefore, the caste certificate of Rakesh Madhusudan Kolalle cannot be considered as certificate of blood related person to show that the petitioner belongs to Mannerwarlu Scheduled Tribe category. Even the death certificate of father of the petitioner does not show his caste and it cannot be used as corroborative piece of evidence. The petitioner has filed bonafide certificates of his children issued by the school, which are of no use. The caste certificate of one Keeran Naggaya Bhandari is placed on record. However, the petitioner has not made it clear as to his exact relation with the said Keeran Bhandari. Thus, record placed before the Court shows that though since 2002, number of letters were issued to the petitioner to produce relevant documentary evidence before the Scrutiny Committee, he did not cooperate and the Executive Engineer of M.S.E.B., Aurangabad was informed

by the Scrutiny Committee regarding non-cooperation on the part of the petitioner. In view of this discussion, it becomes clear that more than sufficient opportunity was given to the petitioner by the Scrutiny Committee to substantiate his claim as Scheduled Tribe.

9. Even in the statement of petitioner recorded by the Vigilance Officer, he was reluctant to cooperate the Vigilance Officer. The petitioner has given a statement before the Vigilance Officer that his father died in the year 1967 and he has no knowledge of his education. The petitioner also stated that his mother Laxmidevi died prior to two years and she was educated upto 7th standard, but he has no knowledge regarding the place of her education. He has expressed his ignorance regarding education of his uncle Shankar Asanna Kolalle, brother Madhusudan. From his statement, it emerges that his two brothers are educated. However, the petitioner has not taken pains to file their school record to prove their category as Mannerwarlu Scheduled Tribe. In the circumstances, it becomes clear that the petitioner does not possess any documentary evidence to show that his caste is Mannerwarlu Scheduled Tribe or he falls in the category of Scheduled Tribe.

10. No doubt, after receipt of show-cause notice alongwith Vigilance Cell report, the petitioner appeared before the Scrutiny Committee on the fixed date of hearing on 20th February, 2007. However, on that date also, he did not file any document and sought time. Even in this Writ Petition, the petitioner has not filed any additional documentary evidence to substantiate his claim. Therefore, it emerges that despite opportunities to the petitioner, due to his non-cooperation to the Scrutiny Committee and Vigilance Officer, he could not place before the Scrutiny Committee reliable evidence to prove that he belongs to Mannerwarlu Scheduled Tribe. Therefore, the impugned order passed by the Scrutiny Committee, invalidating the Mannerwarlu Scheduled Tribe Certificate, issued in favour of the petitioner by the Executive Magistrate, Aurangabad, cannot be faulted with. We are satisfied that the petitioner miserably failed to prove that he falls in the category of Scheduled Tribe. It follows that this Writ Petition being devoid of merit, deserves to be dismissed.

11. In the result, Writ Petition No. 1117 of 2014 is dismissed. The interim relief is vacated. The

parties to bear their respective costs. Rule stands discharged accordingly.

[SUNIL K. KOTWAL]
JUDGE

[T.V. NALAWADE]
JUDGE

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