

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.682 OF 2019

Madhavi Madhukar Sutar Petitioner
Vs.
The State of Maharashtra & Others Respondents

AND

WRIT PETITION NO.697 OF 2019

Shree Madhukar Rajaram Sutar Petitioner
Vs.
The State of Maharashtra & Another Respondents

Mr. V.S. Deokar with Mr. Laxman N. Bedekar for
the Petitioner in both petitions.

Mr. V.M. Mali, AGP, for the Respondent-State in
WP-682/2019.

Mr. S.B. Kalel, AGP, for the Respondent-State in
WPP-697/2019.

**CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

DATE : JANUARY 28, 2019

P.C:

1. These two petitions demonstrate as to how the
petitioners before this Court in challenging the orders of the

District Caste Certificate Scrutiny Committee conveniently gloss over a fraud to which they and their relatives are very much party.

2. The petitioners before this Court are aggrieved and dissatisfied with the orders of the Scrutiny Committee refusing to validate their claim as belonging to “Gadi Lohar”.

3. It is common ground that the petitioners claim to be Gadi Lohar, which is recognised by the State Government as a Nomadic Tribe.

4. The petitioner in Civil Writ Petition No.682 of 2019 says that she obtained admission to the Bachelor of Ayurvedic Medical Science course. She has completed the course and has appeared for the final year examination but the result has been withheld simply because she was unable to produce the Caste Validity Certificate.

5. Relying upon the Caste Certificate dated 22-5-2012 granted by the Competent Authority, copy of which is at

Exhibit-B, the petitioner secured this admission and thereafter this Certificate was forwarded for scrutiny and verification.

6. The argument of the petitioner is that her father, Madhukar Rajaram Sutar, was issued a similar Caste Certificate. The petitioner says that in the Birth Register of her father maintained by the Kolhapur Municipal Corporation, the caste of the grandfather of the petitioner is mentioned as Gadi Lohar.

7. Thus, the Caste Certificate is issued in favour of the petitioner relying upon the Caste Certificate of 2-8-1994 issued in her father's favour.

8. It is claimed that in the grandfather's case the School Leaving Certificate mentions the caste of Rajaram Aaba Sutar (grandfather of the petitioner) as Hindu Sutar Gadi Lohar. Copy of this School Leaving Certificate is annexed as Exhibit-G.

9. It is stated that the petitioner's real brother, Raghavendra Madhukar Sutar, was granted the Certificate of Validity dated 9-6-2008, certifying that he belongs to Gadi Lohar

caste.

10. However, as far as the petitioner's claim is concerned, that has been invalidated. The petitioner had also challenged the earlier order of the Scrutiny Committee passed on similar ground and at that stage this Court set aside the order of the Scrutiny Committee and sent the matter back for fresh consideration.

11. The petitioner appeared before the Scrutiny Committee. Pertinently, the petitioner does not dispute that her brother Raghavendra Madhukar Sutar received a show cause notice dated 7-9-2017 from the Committee calling upon him to show cause why the Caste Validity Certificate granted now be not cancelled.

12. The Committee, *inter alia*, is of the opinion that there are interpolations and over-writings in the documents pertaining to the petitioner's grandfather.

13. Mr. Deokar, appearing in support of these petitions, would submit that the petitioners have relied upon the Certificate of Validity granted to the close relatives from the paternal side. Secondly, the alleged over-writings or interpolations are not carried out by the petitioners nor have they any knowledge of the same. In the circumstances, such facts cannot be relied upon to deny the claim. Merely because a show cause notice has been issued to the Certificate of Validity holder, the brother of the petitioner, does not mean that the petitioners' claim should have been invalidated. He also submits that there are Revenue entries which would demonstrate as to how throughout the petitioners' family was known as Gadi Lohar.

14. We are unable to accept these contentions of Mr. Deokar for more than one reason. The petitioners rely upon, *inter alia*, the Certificate showing the entry in the school record of Rajaram Aaba Sutar. In fact it is a School Leaving Certificate extract. The entries made by the Headmaster of Village Kur, Taluka Bhudargad, District Kolhapur is showing the caste as

Hindu Sutar Gadi Lohar. Then, the petitioners relied upon the Certificate of Validity issued to Raghavendra Madhukar Sutar. The petitioners also relied upon several other entries and which would show that the close relatives, according to them, are Gadi Lohar.

15. On a scrutiny of the whole claim, and particularly after considering the report of the Vigilance Cell, the petitioners' explanation thereto and the documents which are part of the original record, the Committee held that as far as the document at serial No.4 is concerned, this is a School Leaving Certificate issued to the grandfather of the petitioner from the paternal side Rajaram Aaba Sutar. As far as that document is concerned, the entry therein is Hindu Sutar Gadi Lohar. After the Vigilance Cell inspected this record, it discovered that the words "Gadi Lohar" are in faint ink whereas in the original General Register of the school, the entry "Sutar" as also other entries are in one ink. The words "Gadi Lohar" appear in different ink. It is in these circumstances that the Committee concluded that in order to obtain the benefits meant for Gadi Lohar Nomadic Tribe, this

interpolation has been made.

16. Then the document insofar as the petitioner's father is concerned, that was also forwarded by the Scrutiny Committee to the Vigilance Cell for inquiry and report. The Vigilance Cell found that the original Register contains certain pages which are torn from below. It is, therefore, not possible to rely upon such incomplete documents.

17. Then the Committee had before it the Certificate of Validity issued to the petitioner's brother. The Committee called for the original files in relation to the order passed by the Scrutiny Committee in the case of the petitioner's brother. Firstly, the file discloses that there was no speaking order. Secondly, the brother of the petitioner Raghavendra took admission in school in 1998. Raghavendra was born in 1990. Then the Village Development Officer, Gram Panchayat, Mahagaon, Taluka Gadhinglaj, District Kolhapur issued certificate to Raghavendra wherein the entry in the caste column is shown as Gadi Lohar. Then the document in relation to

Madhukar Rajaram Sutar was relied upon.

18. However, Rajaram Aaba Sutar, the grandfather of the petitioner, is also the grandfather of Raghavendra, and insofar as Rajaram is concerned, he was born in the year 1923. He took admission in school in 1932 and the entry as against his name is that he belongs to Hindu Sutar Gadi Lohar. It is in relation to the grandfather that the Committee found that the records have been tampered with or interpolated. In fact, these very documents are part of Raghavendra's records but the Committee then over-looked this interpolation and writing in different ink. It found that even with regard to Aaba Ranba Sutar, the village document No.14 contains an entry as Lohar but that is in different ink. There is no occasion for making such entries when the surname Sutar signifies a different occupation altogether and, namely, that of carpenter. Undisputedly, Gadi Lohars are not carpenters and their occupation is distinct. The traditional occupation of these two communities are in no way connected with each other. Once the Committee found that the petitioner's grandfather, Aaba Ranba Sutar, gave birth, on

23-2-1927, to a boy but the entry in the caste column is Sutar Lohar, then, the word “Sutar” being in different ink and “Lohar” being in a distinct ink and inserted later on, such interpolations would by themselves take away the probative value.

19. Thus, the oral and documentary evidence point towards over-writing and interpolations in the school records and pertaining to the petitioner's father and grandfather. Once we find that this is how the Committee has proceeded and has discarded the documents by doubting their genuineness and veracity, then, all the more we are disinclined to interfere with such findings of fact in writ jurisdiction and in order not to cause any embarrassment to the petitioner and to her real brother, we called for the original records. We have ourselves carefully perused the original records and we have also, with the assistance of the learned AGPs, found out as to how the colour photocopies would show the distinct ink. It is in these circumstances that it will be very unsafe to rely on such documentary evidence. That has rightly been disbelieved and discarded by the Scrutiny Committee. If the findings of fact are

consistent with the materials placed on record, then they cannot be termed as perverse. They are not vitiated by any error of law apparent on the face of the record. In the light of the above, we do not think that we should accede to the request of Mr. Deokar and send the matters back to the Committee and allow the Committee to revisit the findings by permitting the petitioners to tender some documents which are unconnected with the inquiry. Any attempt now made and to seek remand of the matters should be strongly deprecated. In fact, this is the second round in which the petitioner has miserably failed to prove her claim. In fact her claim was founded not on reliable and trustworthy documents but such documents which are primary evidence but containing interpolations and over-writings. For these reasons, not only the petitioner but her brother also does not deserve any Certificate of Validity.

20. The Certificate of Validity in favour of the brother of the petitioner had no probative value. That has been rightly omitted from consideration.

21. For the above reasons, both these writ petitions fail.

They are dismissed but without any order as to costs.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)