

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7669 OF 2019

Akash Pramod Chavan	}	Petitioner
versus		
State of Maharashtra and Ors.	}	Respondents

Mr.R.K.Mendadkar for the petitioner.

Ms.Reena A. Salunkhe-AGP for State.

Mr.Manoj Shirpurkar (R.O.) CVC Pune present.

CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.

DATED :- JULY 12, 2019

P.C. :-

1. By this writ petition under Article 226 of the Constitution of India, the petitioner is challenging an order passed by the Scrutiny Committee, Pune Division, Pune invalidating the claim towards Thakar Scheduled Tribe.

2. The petitioner is aggrieved and dissatisfied with this order because he says that he had produced, *inter alia*, a copy of the certified true copy of the caste validity certificate issued by this very Scrutiny Committee on 14th November, 2003 in favour of Tatyaba Pandharinath Chavan, his grandfather. On the same day, the certificate of validity was issued by this Scrutiny Committee in

favour of the petitioner's father. These two certificates have been brushed aside and discarded on the specious plea that the same are tainted. They are dubious and suspicious. They seem to be vitiated by fraud/ misrepresentation of facts. The Scrutiny Committee opined that it is necessary to issue show cause notices to the certificate holders.

3. Mr.Mendadkar, learned counsel appearing for the petitioner submits that on such vague and general finding, the probative value of this documentary evidence cannot be diluted. That is enough, therefore, to enable us to quash and set aside the impugned order.

4. To be fair to the petitioner, who is seeking admission to a reserved seat and particularly the Engineering faculty/ course, we called upon the learned AGP to produce original record. The petitioner has said in the writ petition that he has been admitted directly to the second year of the 3-4 year Engineering degree course for the academic year 2019-2020 in the Annasaheb Magar College of Engineering, Hadapsar, Pune. The admission is against a reserved seat. As is clear, it is conditional upon production of a caste validity certificate. That is denied and therefore, we called upon the learned AGP to produce the original record. We called upon the learned AGP to produce the original record for one more

reason. Mr. Mendadkar complains that in para 9 of the impugned order, the Scrutiny Committee has referred to the genealogy and family tree, but has singled out the case of one Omkar Santosh Chavan. He is stated to be the second cousin brother of the petitioner. Mr.Mendadkar would submit that this is a different branch. The petitioner, therefore, could not have been visited with an adverse finding on the basis of the order passed on 3rd May, 2019 in the case of Omkar Santosh Chavan. Hence, the petitioner is taken by surprise is the complaint of Mr.Mendadkar.

5. From the original file, we brought to the notice of Mr.Mendadkar the fact that the Vigilance Cell inquiry was carried out. The home study was also made, based on which, there is a detailed report dated 27th December, 2018. That is submitted by one N.S.Bhagat, Police Inspector, Vigilance Cell, Pune. He has stated in the report that the petitioner in the genealogy has referred to his father's name as Pramod Tatyaba Chavan. The said Tatyaba is the grandfather of the petitioner. However, he is supposed to have attended a school, Namely, Zilla Parishad Primary School, Shindewadi, Taluka Daund, District Pune. This is the school which Tatyaba attended "allegedly" and why we use this word is because, this Vigilance Cell report refers to a visit to this school on 30th January, 2019. They were informed by the school

officials that on 23rd March, 2018, the office of the school had been burnt down. There was a fire resulting in mutilation of the School General Register. It is in these circumstances that the Vigilance Cell had no occasion to verify from the School Register the entry in relation to the petitioner's grandfather. The factum of such a fire has been confirmed by the Headmaster of the school. The fire has also been reported to the competent authorities. It is in these circumstances that the Vigilance Cell opines that the old school record has been destroyed in suspicious circumstances.

6. Thereafter, in the case of Omkar Santosh Chavan, the home inquiry was made and a report was submitted on 30th November, 2017. It is in relation to Omkar's case that the Scrutiny Committee passed the order invalidating the claim.

7. With regard to the certificates of validity issued to the petitioner's father and grandfather, therefore, there is a suspicion and the circumstances in which the certificates have been issued, are indeed doubtful, according to the Scrutiny Committee. During the course of the inquiries and proceedings relating to the father and grandfather of the petitioner, there is a record of certain documents, which pertains to the maternal side relatives. Thus, on the strength of the caste validity certificates issued to the relatives from the maternal side, the grandfather and father of the

petitioner have obtained the validity certificates, is the finding. When such is the finding based on record, according to the Scrutiny Committee and made available for their inspection and study in the present proceedings, then, we do not think that we should express any final opinion. Since the petitioner complains that the principles of natural justice have been breached and violated by the Scrutiny Committee as it did not give any opportunity to the petitioner or his family members to meet the contents of the Vigilance Cell nor did it place before the petitioner, during the course of the proceedings, the records in relation to Omkar Chavan, we deem it proper and fit to quash and set aside the impugned order.

8. The impugned order is, therefore, quashed and set aside and the matter is remitted back to the Scrutiny Committee for a fresh scrutiny and verification strictly in accordance with law. While undertaking such scrutiny and verification, the Scrutiny Committee should not be influenced by its earlier findings. The Scrutiny Committee should grant an opportunity to the petitioner or his father to inspect the original records and thereafter, make submissions. The Scrutiny Committee should pass a fresh order on remand as expeditiously as possible and in any event, within a period of two weeks from the date of communication of this order.

9. We clarify that we have not expressed any opinion on the rival contentions. In the event the petitioner is attending classes of the degree course in the said college, the college should not cancel his admission, if not already cancelled, for a period of 15 days from the date of communication of the order of the Scrutiny Committee in the event the same is adverse to him.

10. With the aforesaid directions, the writ petition is disposed of.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)