

Master Yuvraj Sunil Nanavare	)	Petitioner
versus		
The State of Maharashtra and Ors.	)	Respondents

Ms.Reena Salunkhe-AGP for State.

DATED :- AUGUST 27, 2019

1. The petitioner challenges the order passed by the Scrutiny Committee dated 17th July, 2019 invalidating the claim of the petitioner. Consequently, the caste certificate also stands cancelled and confiscated.

2. The petitioner before us is Master Yuvraj Sunil Nanavare. We have to refer to his name and full name simply because the writ petition is filed through his father Sunil Bhausaheb Nanavare. The 2nd respondent-Scrutiny Committee had before it this petitioner's claim relying on a caste certificate that the

petitioner belonged to Mahadeo Koli, Scheduled Tribe. The petitioner obtained admission on the strength of this certificate in a reserved seat in K.B.P. College, Pandharpur. The Principal of that college was obligated to refer the caste certificate for verification and scrutiny of the claim to the competent scrutiny committee in terms 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, 2001 (Act 23 of 2001). The caste certificate dated 24th September 2018 was referred to the Scrutiny Committee. The Scrutiny Committee at Pune invalidated the claim by the impugned order and hence, this writ petition.

3. During the course of arguments, Mr.Sawant, appearing for the petitioner, would submit that the petitioner has relied upon several documents, one of which pertains to close paternal relatives. Our attention is invited to the fact that there are tribe/caste validity certificates issued by this very Scrutiny Committee. However, there is much confusion caused, and that is essentially because of the genealogy and family tree submitted for consideration by the Scrutiny Committee. The submission is that common surnames led to the confusion and the eventual

invalidation. The petitioner cannot be blamed for there are not only common surnames, but common names as well. As is customary, Mr. Sawant would submit, the name of the great grandfather is given to the grandson or to the great-grandson. The name of the grandfather is also similar to that of the grandson. Once there is such an usage and custom prevailing in the tribe, and even in general, then, on this ground alone, the certificate of validity could not have been refused.

4. With the assistance of Mr.Sawant, we have perused the petition and all annexures thereto. We have perused the impugned order as well. A copy of the impugned order is annexed to the writ petition. That order refers extensively to the documents. While it is true that the relationship with the petitioner to those persons whose documents have been produced has not been set out categorically, still, a document related to one Chittaranjan Laxman Nanavare, and who is stated to have been born on 14th January, 1951 has been produced and that document is of 18th June, 1956. He is the grandfather of the petitioner. It is stated that the entry in the caste column pertaining to Chittaranjan is Hindu Mahadeo Koli. However, the Scrutiny Committee found that when the matter was referred for vigilance inquiry to the Vigilance Cell attached to the Scrutiny Committee,

its report reveals that there is a Zilla Parishad Primary School in village Kadlas, Taluka Sangola, District Solapur. The documents maintained in the ordinary and normal course of administration of the school revealed that a relative of the petitioner, Mr.Yashwant Ramchandra Nanavare, who is the cousin grandfather and was born on 17th April, 1927, narrated details, including about his caste. In that, the caste was entered as Koli simpliciter. The word “म” (M) has been inserted in a different ink later on. The petitioner’s relatives ought, therefore, to have disclosed all the traits, characteristics, customs and practices prevailing in Mahadeo Koli, Scheduled Tribe consistent with this insertion. However, when questioned, none of these family members could substantiate and prove their affinity (socio cultural) with Mahadeo Koli, Scheduled Tribe. Therefore, this insertion, according to the Scrutiny Committee, lends credence to its eventual satisfaction that the claim of the petitioner is doubtful and not genuine.

5. It is in these circumstances that the petitioner was supplied with a copy of the Vigilance Cell report and his explanation was called for. The petitioner’s father, Sunil Nanavare, attended the proceedings before the Scrutiny Committee. The Scrutiny Committee, from the records in relation to the petitioners’

relatives from the paternal side, pointed out that majority of the family members have entered their caste/tribe as Koli simpliciter. Therefore, the entry 'Mahadeo Koli' is less frequent and overwhelmingly, the tribe/ caste has been entered only as 'Koli'. This, therefore, reveals that no pre-constitutional documents produced by the petitioner contain the entry in the caste/ tribe column as Mahadeo Koli, Scheduled Tribe. It is in these circumstances that the petitioner has not been able to prove the caste.

6. Ordinarily we would not have interfered with such a reasoning. However, the petitioner, *inter alia*, relied upon the copies of the caste validity certificates issued to one Sudhir Sukhdev Nanavare and a second cousin from the paternal side Supriya Sukhdev Nanavare. In relation to Sudhir, it has been observed by the Scrutiny Committee that there was no vigilance inquiry carried out. In fact, the vigilance inquiry was not at all resorted to. That, therefore, makes the claim of Sudhir doubtful and the certificate of validity issued to him loses its probative value.

7. In relation to Supriya Sukhdev Nanavare, it is observed that the vigilance inquiry carried out in regard to her claim was

superficial. The vigilance inquiry was not to such an extent as would reveal the details of all the family members, their occupation and their traits and characteristics. In fact, none of the entries in relation to the members of the family from the paternal side were brought to the notice of the relatives of Supriya. She suppressed the entries “Koli”, “Hindu Koli” while obtaining this certificate of validity. To both Sudhir Sukhdev Nanavare and Supriya Sukhdev Nanavare, therefore, show cause notices have been issued and the proceedings to recall their certificates of validity are pending.

8. In the above circumstances, one could have safely directed that an inquiry in relation to the petitioner should not have been held independently and rather the cases of Sudhir, Supriya and the petitioner should have been consolidated so that once and for all these Nanavare family members know that they belong or do not belong to this Mahadeo Koli, Scheduled Tribe. None thereafter can misuse and abuse the protection granted to the Scheduled Tribe under the Constitution (Scheduled Tribes) Order, 1950. None can thereafter say that he/she is Mahadeo Koli, Scheduled Tribe and therefore entitled to all the concessions and relaxations meant for tribals. In fact, what the petitioner is consistently relying upon is that various documents have been produced such

as a school leaving certificate of the petitioner, a school leaving certificate of the real brother of the petitioner, and of Yashwant Ramchandra Nanavare, who is a maternal uncle. The maternal uncle's entry is hardly of any assistance. The caste comes from the father and in relation to that, it is stated that the grandfather of the petitioner was known as Maruti alias Bhausahab Laxman Nanavare. Thus, the claim of the petitioner, who is a minor, through his guardian, is that the grandfather of the petitioner was Maruti alias Bhausahab Laxman Nanavare. Then the caste certificate of the real cousin uncle Baburao and the school leaving certificate of Maruti alias Bhausahab Nanavare would reveal that these documents carry, in the caste column, the entry "Mahadeo Koli". Hence, the criticism of Mr.Sawant is that the Scrutiny Committee could not have faulted the petitioner for relying on documents which carry subsequent insertions or alterations. They are not made at the instance of the petitioner, leave alone by the petitioner. It is only the common names in the family which have caused the confusion.

9. We called for the original record and brought to the notice of Mr.Sawant a copy of the genealogy and the family tree forwarded and placed for the consideration of the Scrutiny Committee. We found that the original record contains a copy of this family tree.

It is stated that one Khandu Nanavare was the original ancestor. He had a son called Maruti. Maruti had three sons, namely, Pandurang, Ramchandra and Laxman. In turn, Laxman had two sons, namely, Chittaranjan Laxman Nanavare and Bhausahab Laxman Nanavare and one daughter, namely, Chhaya. If we keep aside Chhaya's branch, what we find is that out of two sons of Laxman, Bhausahab had one daughter Chanchala and two sons, Anil and Sunil. Sunil has one son, Yuvraj, the minor before us and two daughters, namely, Samruddhi and Tejaswini. Now, Bhausahab is stated to be named as such in the genealogy and there is no entry showing his name as "*Maruti alias Bhausahab*". Therefore, when the petitioner says that his grandfather is known as 'Maruti alias Bhausahab Laxman Nanavare', then this family tree does not match and tally with the petitioner's assertion.

10. The father of the petitioner, therefore, brought a further affidavit in this petition. In this affidavit, the following paragraphs are relevant:-

"2. I say and submit that in the statement before the vigilance Committee, I have made statement on 20/06/2019 before the respondent No.2 Committee and while supplying the genealogy of my family the alias name of my father remained to be mentioned in the said affidavit. Therefore without making any changes in the documents submitted before the Caste Scrutiny Committee, I am filing this affidavit explaining the details about my forefathers and family and their

relatives with petitioner, which is true and correct to the best of my knowledge is as under.

3. I say and submit that main ancestor person of our family is Maruti Khandu Nanavare who is my great grand father and who had having three sons namely Laxman Maruti Nanavare, Pandurang Maruti Nanavare and Ramchandra Maruti Nanavare. I say and submit that Laxman Maruti Nanavare had three children namely Chittaranjan Laxman Nanavare, Maruti alias Bhausahab Laxman Nanavare (Birth date 05.03.1938) and daughter Chhaya Waghmode. I am the son of Maruti @ Bhausahab Nanavare.

4. The petitioner has submitted School leaving certificate of my father (annexed at page 42 of the petition) this document record the birth date of my father as 1938 and caste as Hindu Mahadev Koli. The said document was also available with vigilance inspector and is referred to at in the report of F.N.Bakait (at page 71 of petition) this document is pre independence documents however, the report wrongly described my father i.e. petitioner's grandfather as his cousin grandfather.

5. I say and submit that my uncle Chittaranjan Nanavare wrongly described my grandfather in the vigilance report at page 76 of petition has three children namely Gajanan, Malini Waghmare and Sujata Ambigar.

6. I say submit that my father having five children namely Anil, myself Sunil, Sanjay Raju and Chanchala Gaikwad. I further say and submit that Anil is having three children namely Vishwajit and Baljit and Dnyaneshwari. Myself Sunil having three children namely Yuvraj (Petitioner) Samrudhi and Tejeswini. My another brother Sanjay is having three children namely Varad, Atharva and Sakshi and another brother Raju having three children namely Omkar, Rajnandini and Rajlaxmi.

7. I say and submit that my grand Uncle Pandurang is having five children namely Baburao, Sukhdeo, Gokula, Shantabai and Rakhmabai. That Sukhdeo having three children namely Suresh, Sudhir and Vandana. I further

say and submit that the children of Suresh and Sudhir has been given caste validity by respondent no.-2 committee (page-84). My uncle that Baburao has six children namely Subhash i.e. Maruti alias Subhash Baburao Nanavare (School leaving certificate Pg. No.43), Vilas Baburao Nanavare, Raju, Babi Usha and Chaya. I say and submit that the children of my cousin the Subhash have also got caste validity certificates.”

11. That is how the petitioner says that copies of the six certificates issued in the family of real cousins of the petitioner have not lost their probative value. It has not been established or proved to be a case of misrepresentation by the members of the family nor has any fraud perpetrated by them on the Scrutiny Committee or the general public. The observations and conclusions in the impugned order, therefore, visit the petitioner with serious consequences. If tomorrow all certificates of validity are recalled on this reasoning, then, the members or the certificate holders would be prosecuted. They would be deprived of their tribal status. They would be then stripped of everything, including the appointments in public posts held by them. They would also lose their opportunity to take higher education.

12. In the above circumstances and because the petitioner is now making an attempt to explain the entries in the caste columns and prove the relationship with the persons enlisted in the family tree so also the genealogy, without expressing any

opinion on the rival contentions, it would be in the fitness of things to remand the case to the Scrutiny Committee for a scrutiny and verification afresh. The Scrutiny Committee will allow the petitioner to explain the genealogy and family tree produced and copy of which is at page 82 in the original file. Further, the Scrutiny Committee will allow the petitioner to establish and prove the assertions that there are common names and that it was customary to name the grandson by the name of grandfather.

13. It is stated by the petitioner in the additional affidavit filed in this petition that Maruti Khandu Nanavare is the grandfather of the petitioner. He had three sons, namely, Laxman Maruti Nanavare, Pandurang Maruti Nanavare and Ramchandra Maruti Nanavare. Laxman had two sons, namely, Chittaranjan Laxman Nanavare and this 'Maruti alias Bhausaheb Laxman Nanavare' born on 5th March, 1938 and one daughter Chhaya. The father of the petitioner, namely, Sunil is said to be the son of 'Maruti alias Bhausaheb Nanavare'. Let all documents in relation to 'Maruti alias Bhausaheb Laxman Nanavare' be produced and the documentary evidence in relation to this branch be carefully and properly appreciated by the Scrutiny Committee.

14. It is possible that the Scrutiny Committee would be misled because of the common names. It is also possible that confusion may occur in its conclusion on account of the lack of clarity on the part of the petitioner. That is why in the facts and circumstances of the case, we have remanded the matter to the Scrutiny Committee for scrutiny and verification of the claim afresh. This order shall not be treated as a precedent in other matters and particularly other family members.

15. To avoid total confusion, the Scrutiny Committee should take up the cases of Supriya Nanavare, Sudhir Nanavare and the petitioner together so that it will be possible for it to resolve the issue to the satisfaction of all concerned. In that process, the certificate holders will be given an opportunity to establish and prove that they are not guilty of any fraud or misrepresentation of facts. If certificates of validity are issued, then, the petitioner can also obtain the necessary concessions and benefits albeit by establishing his kinship to 'Maruti alias Bhausahab Nanavare'.

16. The claim that there was a practice to name grandchildren after their grandfathers would also then have to be proved. That should be proved to be prevailing amongst the members of Mahadeo Koli, Scheduled Tribe. When such an opportunity is

extended and given to the petitioner, then remand is the only option available to us. It would not be safe for us to express any opinion given the confusion.

17. In these circumstances, we set aside the impugned order. We allow the petition and direct that the matter should be reconsidered by the Scrutiny Committee. It shall grant full opportunity to the parties, including the petitioner before us. The claims of the two certificate holders to whom show cause notices have been issued and the petitioner should be taken up together. The common scrutiny should result in a fresh order being passed. The fresh order necessarily must be a speaking order and must be rendered uninfluenced by any earlier conclusions. Let no observations and findings in the impugned order influence the Scrutiny Committee. All contentions of all parties are kept open.

18. The petitioner says in the writ petition that the third respondent has allotted a college to the petitioner. The petitioner is thus admitted after passing the XIIth examination on the strength of the caste certificate in K.B.P. College, Pandharpur. That admission is still not cancelled. The petitioner is continuing to attend the classes and has not been expelled by the college as yet. If that is correct, then let the petitioner be permitted to

continue the studies at such college and his admission should not be cancelled, if not already cancelled, till the Scrutiny Committee renders its conclusion in terms of our directions and on remand. The Scrutiny Committee is expected to complete the exercise as expeditiously as possible and in any event within a period of four months from today.

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

(S.C.DHARMADHIKARI, J.)

(G.S.PATEL, J.)