

Yogesh Balasaheb Ballal and Ors. } Petitioners
versus
State of Maharashtra and Ors. } Respondents

Mr.Arun B. Padekar-Assistant Law Officer, Nashik
present.

DATED :- AUGUST 27, 2019

1. On 21st August, 2019, on this writ petition, we passed the following order:-

3. All concerned to act on an authenticated copy of this order.

4. The authorities should realise that on account of pressure on the Court, the reasoned order will take some time.”

2. When the separate reasoned judgment was being dictated, we found inconsistencies in the version of the petitioners. That is why this writ petition was placed for directions and further arguments were heard. At our instance, the original records were called for. In the presence of Mr.Warunjikar and Ms.Salunkhe-AGP, we have perused these records. After a perusal of these records, we allowed Mr.Warunjikar and his junior Mr.Pilankar to go through each of the documents pertaining to each of the three petitioners.

3. By this petition under Article 226 of the Constitution of India, the challenge is to a common order dated 13th August, 2019 of the first respondent-Scrutiny Committee, Pune. The petitioners before this court are (i) Yogesh Balasaheb Ballal; (ii) Bhagyashree Balasaheb Ballal and (iii) Aditya Kalyan Ballal. As far as petitioner no. 1 is concerned, she has been admitted to the 2nd respondent college by relying upon the caste certificate of 12th May, 2014 issued by the competent authority. It is stated that petitioner no. 1 belongs to Mahadeo Koli Scheduled Tribe. Petitioner no. 2 was admitted as student in the second respondent college and her caste is also stated to be of the Mahadeo Koli

Scheduled Tribe. Her caste certificate was issued by the competent authority, namely, Sub Divisional Officer, Karjat, District Ahmednagar. The third petitioner has got admission in the fourth respondent college.

4. An affidavit has been filed before the Scrutiny Committee by the father of the petitioner no.3. In the affidavit, a reference is made to the family members and a genealogy and family tree was also annexed. After this affidavit was filed and reliance was placed on the other documents, including *inter alia*, a caste validity certificate issued in favour of the father of petitioner no.3, the Scrutiny Committee found that the matter is not as simple as projected before it, and now before this court. From a perusal of the surnames of the petitioners commences a suspicion that gets support from the other documents placed on record.

5. After we perused the original record and also allowed the petitioners' counsel to peruse them, on instructions, Mr. Warunjikar states today that he does not press this petition insofar as petitioner nos. 1 and 2 are concerned. These petitioners would adopt appropriate proceedings to challenge the order of the Scrutiny Committee. He submits that they be allowed to withdraw from this writ petition.

6. In the facts peculiar to this case and without this being treated as a precedent, we allow petitioner nos. 1 and 2 to withdraw from the proceedings. Their names shall be deleted from the title of this petition. The amendment be carried out by 29th August, 2019. The writ petition is dismissed as far as petitioner nos. 1 and 2 with liberty reserved to them to adopt appropriate proceedings.

7. There is no dispute that the father of petitioner no. 3 has been issued a caste validity certificate by the same Scrutiny Committee in the year 2008. Relying upon that, petitioner no. 3 is claiming a certificate of validity.

8. Ms.Salunkhe, learned AGP, has produced for our perusal the original records and she also relies upon the order of the Scrutiny Committee impugned in this petition, which recites that since serious doubts arise with regard to the claims in this family, a show cause notice has been issued to the father of the petitioner no.3, namely, Kalyan Yashwant Ballal. A document styled as a certificate of validity has been produced in relation to Kalyan Yashwant Ballal, but the Scrutiny Committee says that a show cause notice has been issued to him calling upon him to show cause why this certificate of validity should not be declared as vitiated by fraud or suppression of fact and misrepresentation.

That is because of the materials which have been produced before the Scrutiny Committee during the current scrutiny and verification.

9. Once this position emerges from the record itself, then, subject to the outcome of the proceedings in relation to Kalyan Yashwant Ballal, his son, the petitioner no.3 before us, may be issued a certificate of validity by the first respondent-Scrutiny Committee in terms of our order and directions dated 21st August, 2019. This relief shall be restricted only to petitioner no.3.

10. It is clarified that the certificate of validity issued to petitioner no. 3 shall be subject to the outcome of the pending proceedings in relation to his father Kalyan Yashwant Ballal. Should that certificate of validity of the father be cancelled and confiscated, petitioner no.3 cannot claim any equity and he can safely be termed as deprived of his status of belonging to Mahadeo Koli Scheduled Tribe. In other words, the validity certificate issued to the 3rd Petitioner is entirely dependent and contingent on the fate of the show-cause notice and inquiry against his father. This is only logical. If the father loses his scheduled tribe status, so must the son. Otherwise, it will result in an incongruous situation by which the son is held to belong to a caste to which his own father is held not to belong. That is inconceivable in law. We keep all contentions open as to that controversy.

11. The writ petition is disposed of in the above terms. Our order dated 21st August, 2019 shall stand modified in the above terms. There would be no order as to costs. The original records be returned to the learned AGP.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)