

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 446 OF 2018

Ku. Laxmi d/o Raghu Gillore,
NOW Mrs. Laxmi w/o Jivandas
Mahilkar, aged about 53 years,
occupation – Assistant Teacher,
Education Department, Nagpur
Municipal Corporation and
r/o 757, Mini Mata Nagar,
Near N.M.C. School,
Bhandara Road, Nagpur.

... PETITIONER

Versus

1. The State of Maharashtra,
through its Secretary,
Department of Education,
Mantralaya, Mumbai – 32.
2. The District Caste Certificate
Scrutiny Committee, Nagpur,
Social Justice Bhavan, B Wing,
2nd Floor, in front of
Government I.T.I.,
Shraddhanand Peth,
Deekshabhoomi Road,
Nagpur.
3. The Nagpur Municipal
Corporation, through its
Municipal Commissioner,
Commissionerate, Civil Lines,
Nagpur.

... RESPONDENTS

Shri S.P. Bhandarkar, Advocate for the petitioner.
Mrs. K.R. Deshpande, AGP for respondent Nos. 1 & 2.
Shri S.N. Bhattad, Advocate for respondent No. 3.

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**CORAM : SUNIL B. SHUKRE &
S.M. MODAK, JJ.
FEBRUARY 27, 2019.**

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J.)

Rule. Rule is made returnable forthwith and heard finally with the consent of Shri S.P. Bhandarkar, learned counsel for the petitioner, Mrs. K.R. Deshpande, learned AGP for respondent Nos. 1 & 2 and Shri S.N. Bhattad, learned counsel for respondent No. 3.

2. Being aggrieved by the denial of validity certificate to the petitioner in respect of her claim as belonging to Tribe “*Satnami – Scheduled Tribe*” declared under the Constitution (Scheduled Tribes) Order, 1950, for the State of Maharashtra as well as Madhya Pradesh, by the impugned order dated 10.01.2018, this petitioner has approached this Court by filing this petition. The reason given in the impugned order primarily is that the petitioner failed to produce before the Scrutiny Committee i.e. Respondent No. 1, the documents in proof of her claim that since 1950 the petitioner and her family were

residents of Maharashtra. This is against Scrutiny Committee accepting the fact that the documents filed in proof of the claim of the petitioner that her family has been resident of Rajnandgaon district since 1950, then falling in the C.P. and Bearer province are proper. But the Scrutiny Committee is of the view that as these documents do not show residence in the area forming part of State of Maharashtra since 1950, these documents could not be accepted as sufficient proof of the petitioner being resident of the State of Maharashtra.

3. As rightly submitted by the learned counsel for the petitioner, the reasoning so adopted by the Scrutiny Committee is warped. The State of Maharashtra came to be formed with effect from 01.05.1960 as a result of re-organization of the States on linguistic basis and the report of the States re-organization Committee had been received, sometime in the year 1956. Following acceptance of recommendations of this Committee, various States and Provinces were reconstituted with language spoken in that area as the basis and in this reconstitution, the distribution of areas of erstwhile States and

Provinces amongst the reconstituted States occurred. Previously, there were in existence, so far as Nagpur Region is concerned, a province called Central Province and Berar. This province comprised, suffice it to say for the purpose of present petition, the District of Nagpur as well as District of Rajnandgaon. After reconstitution of the States and formation of the State of Maharashtra as well as State of Madhya Pradesh on the platform of language of the majority, Nagpur district became part of the newly formed State of Maharashtra while Rajnandgaon went to new State i.e. the State of Madhya Pradesh. The facts so briefly referred to herein are part of an acknowledged and undisputed history and, therefore, could be taken into account for dealing with the issue involved here.

4. After reconstitution of the States in the aforesaid fashion, many difficulties arose and one of the difficulties was in relation to the caste or tribal status of the persons who had migrated to an area which was earlier part of erstwhile State or Province and which later merged into newly formed State as a part of policy of reorganization of States. This difficulty has

been resolved by a division bench of this Court in the case of Santosh s/o Sangwa Padoti vs. Caste Scrutiny Committee, Nagpur, reported at 2005 SCC Online Bom. 1418/ (2006) 2 Mh. L.J. 825. This Court has held that if it is seen that an area to which a person claiming a particular caste status originally belonged to an area falling within the previous Province of C.P. & Berar but on account of migration to another area, falling in reconstituted State of Maharashtra has continued to stay there and that the caste or such social status of such person has received recognition as a Scheduled Caste or Scheduled Tribe by virtue of the Constitutional Scheduled Tribe Orders of 1950 and 1952 in both the reconstituted States i.e. State of Maharashtra and Madhya Pradesh, such person would be entitled for grant of sanction to his social status as of a Scheduled Caste or Tribe as the case may be. In that case, the person affected claimed to be belonging to Scheduled Tribe “Gond”, in the State of Maharashtra and for the aforesaid reason, this Court found substance in that claim.

5. When the facts of the instant case are examined in

the light of the view taken by this Court, we find that these facts are almost identical to the facts of aforesaid case of *Santosh s/o Sangwa Padoti vs. Caste Scrutiny Committee, Nagpur*, (supra). In this case also, the father of the petitioner originally belonged to village – Mungaon, District – Rajnandgaon with his father i.e. grand father of the petitioner being a resident of village Mungaon. The father of the petitioner – Raghu, was born on 18.12.1945 and it appears that when Raghu was about 1½ years old, his father Medhu Gillore i.e. grand father of the petitioner died. After this unfortunate event, Rupa @ Sakhubai, grand mother of the petitioner decided to shift her residence to Nagpur and accordingly she shifted her residence along with child Raghu to Nagpur. It is gathered from verification report that the family kept alive its links with its native place at village – Mungaon as the petitioner was born on 07.06.1965 at Mungaon and received primary education at Mungaon. She acquired further education at Nagpur. In the meanwhile, according to the petitioner she got married on 10.05.1988 with Jivandas Bhuneshwar Mahilkar, r/o Hardakala, MP Chhatisgarh, however, thereafter

she is staying with her husband at Nagpur and from 26.11.1998 she is working as Assistant Teacher in Municipal Corporation Nagpur.

6. There is nothing placed on record nor any circumstance has been pointed out to us by the learned counsel for the respondents, on the basis of which the facts discussed earlier could be viewed with any suspicion. Even the verification report which has been considered by the Scrutiny Committee acknowledges the fact that well before 1950, the grand mother of this petitioner had migrated to Nagpur and the reason attributed is to earn livelihood and lead a better life, after untimely death of the grand father of the petitioner at village – Mungaon. The Kotwal Panji, issued by Nagpur Collectorate filed on record stands in support of the facts stated earlier. It shows that one Dhanbai was born at Nagpur on 22.12.1947. Of course it was not produced before the Scrutiny Committee, but the genealogical tree that was considered by the Scrutiny Committee should help us draw necessary inference from this document. It would be that Dhanbai was

the paternal aunt of the petitioner and was born at Nagpur. So, according to us, the relationship of Dhanbai with the petitioner has been reasonably established and when this fact is considered along with the facts acknowledged in the verification report itself, it would impel us to conclude that the family of the petitioner had migrated itself in search of better life to Nagpur well before 1950.

7. Now, let us consider a few more facts which are germane to the issue involved here. The tribe "*Satnami*" has been recognized to be a Scheduled Tribe under the Constitution Scheduled Order, 1950. After the abolition of the C.P. and Bearer province of which District of Rajnandgaon was the part and its reconstitution into two States, i.e. State of Madhya Pradesh and State of Maharashtra in the year 1960, Rajnandgaon went to the share of the newly formed State of Madhya Pradesh. Later on, the district of Rajnandgaon, after further reconstitution of the State of Madhya Pradesh by its division in to two States, Rajnandgaon now forms part of State of Chhatisgarh. The tribe "*Satnami*" is also a Scheduled Tribe in

the State of Chhatisgarh. These facts are not in dispute.

8. The combined effect of the facts established on record and discussed earlier would be that the view taken by the Division Bench of this Court in the case of *Santosh s/o Sangwa Padoti vs. Caste Scrutiny Committee, Nagpur*, (supra) is squarely applicable to the facts of the instant case and that would mean that the petitioner is entitled to be granted validity to her social status as she belonging to Scheduled Tribe “Satnami”.

9. The learned counsel for the petitioner has put forward one more reason to bolster up the case of the petitioner. He submits that there is a paternal cousin of the petitioner by name Dayashankar Bhaiyyalal Gillor, who has been granted validity by the Scrutiny Committee at Amravati. According to him, relationship of Dayashankar with the petitioner is well established by the facts acknowledged to be correct by respondent No. 1 – Scrutiny Committee. However, it must be pointed out here that the petitioner did not include

name of Dayashankar in the genealogical tree that she presented to Respondent No. 1 – Scrutiny Committee and this is the reason why respondent No.1 – Committee refused to accept this ground as sufficient for granting any validity to the petitioner. Now, the petitioner submits that there is no specific denial to such a claim made by the petitioner on the part of the respondents. But, we must say that the petitioner would owe an explanation as to why name of Dayashankar did not find its mention in the genealogical tree, made available for consideration by respondent No.1 – Committee. This explanation is not forthcoming from the petitioner. Therefore, at this juncture, we would not like to refer to this ground for reaching our conclusion one way or other in the matter.

10. In view of the above and for the reasons stated earlier, we are of the view that this petition deserves to be allowed and it is allowed accordingly. Respondent No. 2 – Committee is directed to issue certificate of validity to the petitioner as she belonging to Scheduled Tribe “*Satnami*” within four weeks from the date of receipt of order of this Court.

11. Writ Petition is disposed of accordingly. Rule is made absolute in these terms. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

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