IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7554 OF 2020

SURYADEV BABRUVAHAN DUDHEWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Shri A.S. Golegaonkar h/f Shri Golegaonkar Madhur A.
AGP for Respondents 1 and 3 : Shri S.G. Sangle
Advocate for Respondent 4 : Shri S.S. Patil
ASGI for for Respondent 6 : Shri A.G. Talhar
...

CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 29th November, 2021

Per Court :-

1. By this petition, the petitioner has put forth prayer clauses B, C, D and E as under :-

> *"B) To quash and set aside the impugned decision, order of the respondent no.2 Committee dated 21.10.2020 (Exh.J) invalidating the tribe claim of the petitioner and declare that the petitioner belongs to Koli Mahadev Scheduled Tribe Reserved Category with directions to the respondent no.2 Committee to issue Caste Validity Certificate to the petitioner forthwith, by issuing appropriate writ or order or directions in the like nature.*
>
> *C) To direct the respondent no.4 and 5 to issue Degree Certificate of MBBS course, Internship*

Certificate and original documents to the petitioner which were submitted at the time of admission to Ist year MBBS course, as earliest by stipulating the period which this Honourable Court deems fit, by issuing appropriate writ, order of directions in the like nature.

D) To grant stay to the impugned decision/ order of the respondent no.2 Committee dated 21.10.2020 (Exh.J) and direct the respondent no.1 to 3 not to take any adverse or criminal action against the petitioner on the basis of the decision of the respondent no.2 committee, pending hearing and final disposal of this Writ Petition.

E) To direct the respondent no.4 and 5 to issue Degree Certificate of MBBS course, Internship Certificate and original documents to the petitioner which were submitted at the time of admission to Ist year MBBS course, forthwith, pending hearing and final disposal of this Writ Petition."

2. We have extensively heard the submissions of the learned counsel for the respective sides and have gone through the petition paper book with their assistance. The learned AGP has drawn our attention to the record and proceedings pertaining to the case of the petitioner.

3. Considering the order that we intend to pass of remitting the matter to the office of respondent No.2 (Scheduled Tribe Certificate Scrutiny Committee, Aurangabad) for reconsideration, we are not considering prayer clause B to the

extent of granting the validity certificate.

4. The learned advocate for the petitioner submits, on specific instructions, that the petitioner is presently pursing his compulsory internship course and would not seek any protection of this Court until respondent No.2/Committee decides his claim. He submits that the Committee may be granted 30 days time.

5. We have perused the genealogy, which was placed before the Committee by the biological sister of the petitioner, namely, Pallavi when her claim of belonging to “Koli Mahadev Scheduled Tribe” was considered. The genealogy begins with Govind, who had one son, namely, Yashwant. The controversy originates at this stage wherein, the petitioner and his sister have claimed that Yashwant had only two sons, namely, Babruvahan (father of the petitioner and Pallavi) and Ashok. Babruvahan has a daughter Pallavi and a son Suryadev (present petitioner). Ashok has two sons namely, Indrajeet and Senapati. Pallavi has been granted a validity certificate by the Committee, which is now seriously doubted by the Committee for the reasons set out in paragraphs below clause (ii) upto (vi) on internal page Nos.12 to 14 of the impugned order dated 21.10.2020.

6. The documents produced before the Vigilance

Officer by the petitioner indicate that Ashok was born on 10.03.1945 and his biological brother Babruvahan (father of Pallavi and the petitioner) was born after 27 years on 10.04.1972. The school record of Ashok and Babruvahan indicates their caste as Koli Mahadev. However, the Committee conducted an independent investigation and found from the school record that Ashok was born on 24.03.1964, his admission date in school is 16.07.1970 and his caste is shown as "Hindu Koli". The record pertaining to the father of the petitioner (Babruvahan) contains a torn page due to spillage of water and the caste shown as "Hindu Koli Mahadev". Babruvahan and Ashok seem to have a biological sister, namely, Savita, who studied in the same school and whose caste is shown to be "Hindu Koli". She is born on 01.01.1973 and took admission in the school on 04.07.1978.

7. The record produced by the petitioner indicates that his real uncle Ashok bore the first son Indrajeet on 02.04.1985 purportedly when Ashok was 40 years of age. The second son Senpati was born on 04.04.1991, when Ashok was 46 years old. The record traced out by the Vigilance Officer does not have any discrepancy as regards the dates of birth of Indrajeet and Senpati. It indicates that Ashok bore the first son Indrajeet when he was

21 years of age and the second son Senapati was born, when Ashok was 27 years of age. The record collected by the Vigilance Officer indicates the caste of Ashok as “Hindu Koli”, Indrajeet as “Hindu Koli Mahadev” and Senapati as “Mahadev Koli”.

8. As such, the discrepancy is that Savita carries her caste as “Hindu Koli”, which will fall in Special Backward Category (SBC). So also, Ashok carries the caste as “Hindu Koli”. The petitioner has disowned Savita as his aunt (father’s real sister). The petitioner’s father’s entry is “Hindu (Koli Mahadev)” and in the record collected by the Vigilance Officer, the relevant entry has been spoiled due to spillage of water and a fresh entry shows “Hindu Koli Mahadev”.

9. In paragraph 7(ii)(a), the Vigilance Cell has noticed an entry in the name of Ashok as “Koli” and in the name of Savita as “Koli”. The petitioner has disowned Ashok as his uncle, whose entry in the school indicates his caste as “Hindu Koli” and the date of admission in the school as 16.07.1970. The petitioner also disowns Savita whose date of entry in the same school is 04.07.1978 and her caste is shown as “Hindu Koli”. The petitioner submits that there is no Savita who is his aunt and his real uncle Ashok was born on 10.03.1945 and whose entry in the

school is dated 16.06.1951, showing his tribe as “Koli Mahadev”.

10. It is apparent that the Vigilance Officer has not brought “that Ashok” before the Committee, who is born on 24.03.1964 and his caste is recorded as “Hindu Koli” and has also not examined Savita.

11. In view of the above, we have contradictory evidence showing one Ashok as born in 1945 and whose brother Babruvahan (father of the petitioner) was born after 27 years and another Ashok who was born on 24.03.1964 and his caste is shown as “Hindu Koli”. So also, Savita, the purported biological sister of Ashok and Babruvahan, is not the biological sister of his father as per the petitioner and she has also not been examined.

12. In the extract issued and signed by the Headmaster of the Zilla Parishad Prashala, Hadolti, Taluka Ahmedpur, District Latur dated 08.02.2017, the word “Koli” is written into bracket below the word “Hindu” in the entry regarding Ashok and the entry with regard to the father of the petitioner, has been torn due to spillage of water and now shows the entry as “Hindu (Koli) (Mahadev)”. There is surely a room for doubting such

entry.

13. In the light of the above, the impugned order expresses a view that as there are over-writings and discrepancies in the record of Babruvahan and Ashok and as the existence of their sister Savita is suppressed, the validity certificate issued to Pallavi (sister of the petitioner) is under a serious doubt. The Police Inspector Shri Sanjay Tujalwar, who placed false entries before the Committee to support the claim of Pallavi, has now been subjected to disciplinary action. In this backdrop, no reliance was placed on the validity of Pallavi. The father of Pallavi and petitioner, namely, Babruvahan secured a validity certificate after Pallavi was granted such validity.

14. We are of the view that the petitioner would be able to face the adverse entries of his father, uncle Ashok and aunt Savita. Therefore, we are of the view that the file of the petitioner deserves to be remitted to respondent No.2/Committee so as to enable the Vigilance Officer to produce Savita and lead evidence to establish that the entries of Ashok and Savita are to the detriment of the claim of the petitioner. So also, the Committee will have to assess as to whether, there are two Ashok bearing the same name, who were admitted in the same school, one on

16.06.1951 and other Ashok on 16.07.1970.

15. In view of the above and considering the request of the petitioner as noted in the foregoing paragraph No.4, this Writ Petition is partly allowed as under:-

(a) The impugned order dated 21.10.2020 is quashed and set aside and the proceedings bearing No.LAT/ EDN/ 14/ 2014 is remitted to the office of respondent No.2 at Aurangabad.

(b) The petitioner shall appear before the said Committee on 06.12.2021 at 12:00 noon and shall abide by the dates of hearing, which may be granted by the Committee.

(c) As the petitioner has stated before the Court through his counsel that he would not pray for protection, we expect respondent No.2/ Committee to deliver a verdict on 21.01.2022.

(d) The petitioner shall wholeheartedly cooperate and shall not seek adjournments on frivolous and unreasonable grounds.

(e) The committee shall grant closer dates to enable the completion of the proceedings so as to deliver it's

order at 03:00 PM on 21.01.2022.

(f) The copy of the order shall be kept ready when the same is pronounced at 03:00 pm and such copy shall be delivered to the petitioner by following the regular procedure on the same date.

kps (S.G. MEHARE, J.) (RAVINDRA V. GHUGE, J.)