

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1638 OF 2021

Ku. Kalpna Anandrao Rodge
about 53 years, Occupation – Service,
resident of New Gilani Nagar, Behind
SBI, Umarsara, Dist. Yavatmal



.. Petitioner

Versus

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, through its Principal
Secretary, Amravati – 414601

2. Amolakchand Mahavidyalaya, through
its Principal, Godhani Road, Umarsara,
District – Yavatmal, Pin – 445001



.. Respondents

WRIT PETITION NO. 1639 OF 2021

Umesh S/o Anandrao Rodge
aged about 46 years, Occupation Service,
Resident of Vinkar Vasahat, Near
Jagdamba Vidyalaya, Achalpur,
Dist.Amravati.



.. Petitioner

Versus

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, through its Principal
Secretary, Amravati – 414601

2. The President, Multipurpose Education
Society, Sindhi (Bu.) Tq.Achalpur, Dist.
Amravati

3. The Secretary, Multipurpose Education
Society, Sindhi(Bu.) Tq.Achalpur,
Dist.Amravati

4. The Head Master, Janta High School,
Paraspur, Tq. Achalpur, Dist.Amravati



.. Respondents

Mr. Ashwin Deshpande, Advocate for petitioners in both petitions.
Mr. A. M. Kadukar, A.G.P. for respondent Nos.1.
None for respondent Nos.2 to 4.

CORAM : **SUNIL B. SHUKRE AND**
ANIL L. PANSARE, JJ.

DATED : **26/10/2021**

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard learned counsel for the petitioner and learned Assistant Government Pleader for respondent No.1. Nobody appears for respondent Nos.2 to 4, though served.

(2) **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties present before the Court.

(3) The impugned order has been assailed by the learned counsel for the petitioner on various grounds. The grounds taken are that the Scrutiny Committee has completely ignored the per-constitutional documents of the years 1932 and 1946 showing the social status of blood relatives of the petitioner on the paternal side as

that of “Halbi” community, that the document dated 26/06/1921 was never submitted by the petitioner, but, has been shown to be submitted by the petitioner, that the validity certificate granted by the Scrutiny Committee on the basis of the directions issued by this Court in Writ Petition No.2300 of 2007 to the real brother of the petitioner was not accepted by the Scrutiny Committee on the specious ground that tribe claim of the real sister of the petitioner has been invalidated by the Scrutiny Committee in the year 1999, thereby meaning that the validity certificate granted on the directions of the High Court was invalid and the invalidity of the claim of the sister of the petitioner recorded by the Scrutiny Committee in the year 1999 on its own was valid, that no opportunity of hearing was granted to the petitioner to establish his say that the invalidation of the claim of the sister of the petitioner in the year 1999 was insignificant as at that time there was no vigilance enquiry contemplated and that validation of the claim of the real brother of the petitioner was most significant as it was done after considering the vigilance enquiry report and evidence available on record and that there was no application of mind on the part of the Scrutiny Committee to the valuable facts and circumstances.

(4) The learned AGP, however, disagrees. He submits that the subsequent validity granted to the real brother of the petitioner on the strength of the directions issued by this Court was probably obtained by the brother of the petitioner by suppressing the material fact of invalidation of the tribe claim of the real sister of the petitioner, although the submission regarding suppressing of material fact is vehemently opposed by learned counsel for the petitioner.

(5) On going through the impugned order, we find great force in the argument of the learned counsel for the petitioner and no merit in the submissions of the learned Assistant Government Pleader.

(6) The documents of the years 1932 and 1946 standing in the names of the blood relatives of the petitioner from the paternal side showing those relatives to be belonging to Halbi community, have been completely ignored by the Scrutiny Committee. It is further seen that the contention of the petitioner that the document dated 26/06/1921 not submitted by the petitioner has also been considered. It is further seen that the petitioner has not been given any opportunity to submit his explanation as regards the reliability of the tribe validity certificate granted to the real brother of the petitioner and doubtful

character of the invalidation of the tribe claim of the sister of the petitioner.

(7) It is further seen that while rejecting the validity certificate granted to the brother of the petitioner on the strength of the directions issued by this Court, the Scrutiny Committee has taken the invalidation of the claim of the sister of the petitioner as a gospel truth and that too without giving any reason. When two apparently contradictory pieces of evidence are to be considered and it is decided to reject one of them, the Authority which does so must give reasons as to why the piece of evidence proposed to be accepted is reliable. Here, the piece of evidence in the nature of validity standing in the name of the real brother of the petitioner has been rejected by giving reason of suppression of material fact of invalidation of the claim of the sister of the petitioner. But, when it is said so, the Scrutiny Committee has also presumed that the invalidation of the claim of the sister of the petitioner was correct. Before such a finding was recorded, the Scrutiny Committee ought to have considered as to whether or not invalidation of the claim of the sister of the petitioner was itself a reliable piece of evidence or not and that has not been done by the

Scrutiny Committee. It also appears that there are other documents which are not appropriately considered by the Scrutiny Committee and therefore, as rightly submitted by the learned counsel for the petitioner, there is also non-application of mind by the Scrutiny Committee in rejecting the claim of the petitioner. In view of the above, the petition deserves to be allowed, hence, the following order :-

1. The petition is allowed.
2. The impugned order is hereby quashed and set aside.
3. The matter is remanded back to the respondent No.1 for fresh consideration of the claim of the petitioner, in accordance with law, as expeditiously as possible.
4. The petitioner to appear before the Scrutiny Committee on **08th November, 2021.**
5. The respondent No.1 is directed to decide the claim of the petitioner in accordance with law within a period of **three months** from the appearance of the petitioners.

6. We direct that no coercive action shall be taken in relation to the service of the petitioner till his claim is decided by the Scrutiny Committee and if the decision goes against the petitioner, no such coercive steps shall be taken for further period of **two weeks** from the date of the order.

Rule made absolute in above terms. No costs.

[ANIL L. PANSARE J.]

[SUNIL B. SHUKRE J.]

KOLHE