

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

WRIT PETITION NO.2748 OF 2021

Niraj Baburao Kathane,
 aged about 19 years,
 occupation : student – aspirant
 for admission to Higher Education,
 under NT quota, resident of village
 Marakhodi, Post Gurwada,
 Tahsil Gadchiroli, District
 Gadchiroli – 442 605.

... Petitioner

- Versus -

- 1) District Caste Certificate
 Scrutiny Committee, Gadchiroli,
 through its Member Secretary,
 Campus Area, Gadchiroli -
 442605.
- 2) State of Maharashtra,
 Department of Social Justice
 and Special Assistance,
 through its Secretary,
 1st Floor, Annex Building,
 Mantralaya, Madam Cama Road,
 Mumbai – 400 032.
- 3) Maharashtra State Backward
 Class Commission, through its
 Member Secretary, 3rd Floor,
 307, New Administrative Building,
 Opposite Council Hall,
 Pune 411 001.

... Respondents

Shri S.P. Khare, Advocate for petitioner.

Shri A.M. Kadukar, Assistant Government Pleader for respondents.

CORAM : SUNIL B. SHUKRE AND
A.L. PANSARE, JJ.
DATED : OCTOBER 25, 2021

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

Heard Shri Khare, learned Counsel for the petitioner, and Shri Kadukar, learned Assistant Government Pleader for the respondents.

2) Rule, returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

3) The tribe claim of the petitioner as he belonging to “Zade” (Nomadic Tribe-C) has been rejected by the Scrutiny Committee on the ground that the petitioner could not adduce any reliable evidence, although it is the submission of Shri Khare, learned Counsel for the petitioner, that overwhelming evidence of great probative value was indeed tendered by the petitioner, which was unfortunately not appreciated properly by the Scrutiny Committee. Shri Kadukar, learned Assistant Government Pleader for the respondents, of course, supports the impugned order, but he also

could not substantiate his opposition by referring to any convincing reason finding its place in the impugned order.

4) In this case, there has been a split opinion amongst members of the Scrutiny Committee. The minority view is that the petitioner has succeeded in establishing his tribe claim, but the majority view is quite opposite to it. According to majority view, the petitioner failed in proving his claim. The majority view, it is seen from the impugned order, does not consider the entry of the year 1947-48 regarding birth of a child “Budi” to the couple by name Lachma and Ganga Zade, in its proper spirit. This entry has been rejected by the majority opinion on the ground that Lachma and Ganga have not been established by the petitioner as his blood relatives. According to the majority opinion, the petitioner ought to have produced in evidence additional documents, such as extract of School record or some relevant School documents to establish his claim that Lachma and Ganga were his paternal ancestors. It appears that the Scrutiny Committee, in doing so, has not considered the conclusion recorded by the Vigilance Officer in his vigilance enquiry. The Vigilance Officer in his report has not taken any exception to the relationship of the petitioner to Lachma and Ganga from his paternal side, rather the Vigilance Officer has found that the entry of 1947 indicates social

status of the persons named in the document of 1947. The majority view has also not considered the evidence of old villagers, who had stated before the Vigilance Officer about the relationship of Lachma with petitioner. The result of not considering the relevant facts even from the evidence available before the Scrutiny Committee by the members, who formed majority, is of erroneous final conclusion and, therefore, we are of the view that such conclusion would not stand to the scrutiny of law. Any conclusion recorded in ignorance of these relevant facts would have to be found as perverse and illegal, which we do so.

5) In view of above, the petition deserves to be allowed and it is allowed accordingly. The impugned order dated 12/2/2021 passed by the Scrutiny Committee is hereby quashed and set aside. The matter is remanded back to the Scrutiny Committee for fresh decision in accordance with law. The petitioner is directed to appear before the Scrutiny Committee on 15th November 2021 and the Scrutiny Committee is directed to decide the tribe claim of the petitioner afresh in accordance with law within three months from the date of appearance of the petitioner before it. Leave to produce additional documents before the Scrutiny Committee is granted to the petitioner.

- 6) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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