

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1792 OF 1999

Ku. Archana Tulshiram Kumbhare,
through its natural Guardian Tulshiram
Keshavrao Kumbhare, 854, in front of
N.I.T. near Dr. Babasaheb Ambedkar
Garden, Vaishali Nagar, Nagpur.

... Petitioner

- Versus -

- 1) State of Maharashtra, through its
Secretary, Department of Tribal
Development, Mantralaya,
Bombay – 32.
- 2) Committee for Scrutiny and
Verification of Tribes Claims,
Adivasi Bhavan, Amravati Road,
Opposite R.T.O. Office,
Giripeth, Nagpur.
- 3) Secretary, Medical Education,
Mantralaya, Bombay – 32.
- 4) Chairman, Central Admission
Committee, c/o Dean,
Government Medical College,
Nagpur.
- 5) Maharashtra University of Health
Sciences, through its Registrar,
Anandvalli, Nashik.

... Respondents

Shri A.R. Ingole, Advocate for Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for Respondent Nos.1 to 4.

Shri J.B. Jaiswal, Advocate for Respondent No.5.

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 1 MARCH 2021

ORAL JUDGMENT (PER NITIN JAMDAR, J.) :

By this petition, the Petitioner has challenged the order dated 22 March 1999 passed by the Respondent Scrutiny Committee invalidating the caste certificate of the Petitioner dated 16 August 1994 as belonging to “Halba” (Scheduled Tribe) issued by the Executive Magistrate, Nagpur.

2) The Petitioner applied and was granted a caste certificate as belonging to “Halba” (Scheduled Tribe) by Executive Magistrate, Nagpur on 16 August 1994. The case of the Petitioner was referred to the Scrutiny Committee for verification. The Petitioner produced ten documents in respect of her caste claim. The documents were caste certificates, Primary School record, 7/12 extract and the judgment passed by the Division Bench of

this Court in Writ Petition No.2070/1985. Enquiry was conducted by the Police Vigilance Cell and report was given. The Scrutiny Committee observed that the caste certificates produced by the Petitioner and the documents of post independence period cannot be considered as requisite proof.

3) The Petitioner did not produce any document of her relatives of the period prior to 1950 to show that she belongs to “Halba” (Scheduled Tribe). The copy of the 7/12 extract relied upon by the Petitioner has been taken note of by the Scrutiny Committee and it is stated that there is no caste mentioned therein. The 7/12 extract is sought to be relied upon by the Petitioner to connect her with the judgment delivered by the Division Bench of this Court in Writ Petition No.2070/1985 on 13 August 1987.

4) The judgment dated 13 August 1987 delivered by the Division Bench in Writ Petition No.2070/1985 reads thus :

“Oral Judgment (Per V.A. Mohta, J.) :

Heard parties by consent on merits. Undisputed position is that the point involved is covered by our decision in Millind Vs. State (1986 (1) BCR 403) in favour of the petitioner.

As a result, the petition is allowed. The petitioner is held to be belonging to Scheduled Tribe, Halba. The orders

invalidating the certificate are set aside. Rule accordingly. No order as to costs.”

It is the case of the Petitioner that the Petitioner in the aforesaid writ petition, namely, Suresh Keshaorao Kumbhare is her paternal uncle. However, no affidavit of Suresh Keshaorao Kumbhare is placed on record. The Scrutiny Committee has observed as far back as in 1999 that the Petitioner did not produce any affidavit to establish her relationship with Suresh Keshaorao Kumbhare. In spite of this position, when the petition came up on board on 11 January 2021, we had granted an opportunity to the Petitioner to produce affidavit of Suresh Keshaorao Kumbhare. However, no such affidavit is produced. The validity certificate stated to have been issued in the name of the brother of the Petitioner refers to the earlier order of the High Court as above. Nothing is placed on record as to how this validity certificate came to be issued and what was the evidence therein.

5) In these circumstances, if the Scrutiny Committee has come to the conclusion that the Petitioner has failed to demonstrate her caste claim, no perversity can be found. Writ

Petition is dismissed. Rule stands discharged. No order as to costs.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

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Kamal
Jeswani

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