

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

Writ Petition No.3564 of 2020

Ganesh s/o. Bhimrao Umredkar

...Petitioner

Versus

State of Maharashtra, through its Secretary, Adivasi

Vikas Vibhag, Extension Building, Mantralaya, Mumbai ...Respondents
and others

Shri Mangesh V. Bute, Advocate for the Petitioner

Mrs. K. R. Deshpande, AGP for the Respondent - State

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

DATED : 02 FEBRUARY 2021

P.C.:

Heard learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Scheduled Tribe Scrutiny Committee dated 06 March 2020, invalidating the caste certificate issued to the Petitioner on 27 July 1998 as belonging to 'Halba' Scheduled Tribe. The Petitioner was appointed as Junior Division Clerk with Respondent No.5 from the Scheduled Tribe Category. The Petitioner's Caste certificate was referred for verification on 10 August 2018 to the Scrutiny Committee.

3. Before the Scrutiny Committee, the Petitioner has filed various documents in support of his caste. Vigilance Cell Inquiry was conducted and documents in respect of the Petitioner's father was placed on record. The Scrutiny Committee, after analyzing the documents, came to the conclusion that the caste certificate was wrongly issued to the Petitioner as he has failed to produce the necessary documents in support of his claim. Accordingly by the impugned order the caste certificate of the Petitioner came to be invalidated.

4. The learned counsel for the Petitioner submitted that the documents i.e. Dakhal Kharij Register and affidavit, in respect of the entry of the Petitioner's father dated 23 April 1941, has been held against the Petitioner by the Scrutiny Committee, without giving any opportunity to explain the entry of Petitioner's father of 23 April 1941, which shows his caste as 'Koshti'. It is further submitted that the Petitioner was not given any adequate opportunity and the School Certificate of the Petitioner's cousin dated 30 November 1955, where the entry 'Halba' has not been considered. He further submitted that since no opportunity was given, the matter be remanded to the Scrutiny Committee.

5. Under Section 8 of *The Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000* (for short 'the Act'), the burden is upon the candidate to substantiate his caste claim.

The School Leaving Certificate of the Petitioner's father of the pre-independence period shows the entry as 'Koshti'. No document is brought forth by the Petitioner prior to independence period which show the entry as Halba, therefore, the Petitioner has failed to discharge the burden as envisaged under Section 8 of the Act.

6. Furthermore, the School Leaving Certificate of Petitioners' father wherein the entry of the year 1941 is shown as Koshti, the explanation offered is that the Petitioner was seeking to give up the entry if the matter was to be remanded. It is not stated that this entry is not of Petitioner's father. In the entire Petition, only general averments are made, therefore, the position is that the Petitioner's father's School Leaving Certificate which is not questioned, shows the entry as Koshti. There are no other documents and nothing is shown as to why the said entry not to be considered by the Committee. The Scrutiny Committee had called upon the Petitioner to submit an explanation when the Petitioner did not attend the hearing, giving medical reasons.

7. According to us, in view of the failure of the Petitioner to produce any document prior to 1950, and the document of the petitioner's father prior to 1950, which is against the Petitioner, no case is made out for interference in the assessment of evidence by the Scrutiny Committee. The Scrutiny Committee has duly given weightage to the document prior to 1950 and has held that the petitioner has not discharged the burden under Section 8 of the Act and has rightly passed the impugned order.

8. Though it is doubtful, whether the Scrutiny Committee can direct the employer of the Petitioner to submit a report to the Scrutiny Committee, that will not be an impediment for the employer of the Petitioner to take action in view of the invalidation of the Caste Certificate of the Petitioner.

9. The Writ Petition is rejected.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]