

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPURWRIT PETITION NO.8168 OF 2019

Shri Pramod s/o Mukunda Sorte,
 aged 46 years, occupation :
 Government Service, r/o 126,
 Maa Bhagawati Nagar, near
 Shesh Nagar (Chikhalikhurd),
 Manewada, Nagpur.

... Petitioner

- Versus -

- 1) Scheduled Tribe Certificate
 Scrutiny Committee, Gadchiroli,
 through its Chairman, Gadchiroli.
- 2) Government of India, India
 Meteorological Department,
 through its Director General and
 Disciplinary Authority, having
 its office at Office of the Director
 General of Meteorology, Mausam
 Bhavan, Lodi Road, New Delhi -
 110003 (India).

... Respondents

Shri A.S. Mardikar, Senior Advocate, assisted by Adv. R. Khemuka,
 for petitioner.

Shri N.R. Patil, Assistant Government Pleader for respondent no.1.

Shri U.M. Aurangabadkar, Assistant Solicitor General of India for
 respondent no.2.

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

DATED : NOVEMBER 16, 2021

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

Heard Shri Mardikar, learned Senior Advocate for the petitioner, Shri Patil, learned Assistant Government Pleader for the respondent no.1, and Shri Aurangabadkar, learned Assistant Solicitor General of India for the respondent no.2.

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

3) According to Shri Mardikar, learned Senior Advocate for the petitioner, the document, which has been obtained by the petitioner subsequent to passing of the impugned orders being important and reflective of the true social status of the petitioner, must be considered by the Scrutiny Committee by following its own procedure, for deciding the social status of the petitioner, which the petitioner claims to be that of “Halba/Halbi” (Scheduled Tribe). According to him, decisions in such cases have the potential of changing lives of such persons and, therefore, irrespective of the fact that the Scrutiny Committee has already invalidated the claim of the petitioner as he belonging to “Halba/Halbi” (Scheduled Tribe), it is necessary that one more opportunity is given to the petitioner, especially when the opportunity has been created after acquisition of

the new document by the petitioner, which is of the year 1930, i.e. pre-constitutional document and which unequivocally declares the social status of the grandfather of the petitioner as that of “Halbi” community, which was, after 1950, declared to be Scheduled Tribe.

4) We find considerable weight in the argument of the learned Senior Advocate for the petitioner and, therefore, although no fault could be found with the impugned order of the Scrutiny Committee for the obvious reason of it not having had any opportunity of considering the new document, in the interest of justice, this matter requires re-consideration by the Scrutiny Committee, after all any decision of validation or invalidation of the caste or tribe status of a claimant, as argued by the learned Senior Advocate, has the potential of changing life of the petitioner.

5) In the result, we are inclined to allow the petition and we allow the petition accordingly in terms of its prayer clauses (a) and (b). The impugned orders dated 25/11/2019 and 2/12/2019 passed by the respondent no.1 Scrutiny Committee and respondent no.2 respectively are hereby quashed and set aside. The matter is remanded back to the Scrutiny Committee for a fresh decision in accordance with law.

We grant liberty to the petitioner to file before the Scrutiny Committee the document, which is a certificate of imprisonment issued in respect of imprisonment of Shri Waktu s/o Lodia Halbi, grandfather of the petitioner. We direct the Scrutiny Committee to consider this document after subjecting it to the vigilance enquiry, if the Scrutiny Committee finds it to be necessary and also other documents, which are already available or which may be available with the Scrutiny Committee, in accordance with law.

The Scrutiny Committee shall take its fresh decision as early as possible and in any case within four months from the date of appearance of the petitioner before the Scrutiny Committee. The petitioner to appear before the Scrutiny Committee on 29/11/2021. The petitioner shall cooperate with the Scrutiny Committee for arriving its early decision in the matter and shall not seek any unreasonable adjournments.

We direct that till the time the Scrutiny Committee decides the issue afresh, service of the petitioner shall be restored and shall stand protected and in case the decision goes against the petitioner, the protection so granted to the petitioner shall continue for a further period of two weeks from the date of communication of adverse decision, if any.

All questions are kept open.

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

JUDGE

JUDGE

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