

Halba, Scheduled Tribe and cancelled and confiscated the caste certificate of both the petitioners and further issued directions to initiate action against the petitioners pursuant to provisions of Section 10 and 11 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act 2000 (hereinafter referred to as “the Act” for the sake of brevity).

4. The claim of petitioner No.1 as belonging to Halba, Scheduled Tribe was forwarded by the respondent No.3/educational institution, whereas respondent No.4/educational institution forwarded the proposal of petitioner No.2 being their employees for verification. The petitioners so as to substantiate their claim have furnished the relevant information pursuant to the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (hereinafter referred to as “the Rules” for the sake of brevity), particularly, in Form-E framed under Rule 11(1). Amongst other, the petitioners have relied on the school entries so as to establish their claim for grant of validity.

5. Since the respondent/Scrutiny Committee was not satisfied with the documentary evidence produced by the petitioners pursuant to rule 12(2) of the Rules referred the matter to the Vigilance Cell for conducting the school, home and other enquiry. The Vigilance Cell during such enquiry has noticed adverse entries

and accordingly submitted an adverse report to the committee. The Research Officer was associated with the Vigilance Cell.

6. Based on the Vigilance Cell Report, the Scrutiny Committee formed an opinion that it is not satisfied about the claim of the petitioners. As such, caused show-cause notice to the petitioners along with copy of the Vigilance Cell Report. The petitioners accordingly submitted their explanations to the Vigilance Cell and the committee after having heard the petitioners rejected the claim for validity vide impugned order.

7. Mr. R. K. Mendadkar, learned counsel appearing for the petitioners submits that the respondent/committee has committed an error in reading down the entries in relation to the petitioners as that of other caste, particularly, when such interpretation is not permissible. According to him, the petitioners have cleared the affinity test and the documents which are placed on record duly establishes their claim as petitioners are belonging to Halba, Scheduled Tribe. So as to substantiate his claim, he has relied on the entries in the caste certificate, the entries in the school record, the explanation tendered to the Vigilance Cell, so also the affidavit of Bhagwat Ghanshyam Wagh, family chronicler. According to Mr. R. K. Mendadkar, the respondent/ committee has failed to appreciate the evidence.

8. Learned AGP would strenuously would urge that the

order impugned passed by the committee is just and proper as the old tribe entries depict that the petitioners belong to Koshti and not Halba, Scheduled Tribe.

9. I have appreciated the said submissions.

10. As regards the claim of the petitioners is concerned, the Vigilance Cell has obtained the record in relation to the tribe entries such as (a) Ram Hari Shelukar belonging to Hindu, Nagpure Koshti born on 10th May, 1932 and (b) Laxman Hari Shelukar belonging to Hindu, Nagpure Koshti born on 12th January, 1935 as under:-

Sr. No.	Name	Evidence Produced	Caste Mentioned in Evidence	Date Mentioned in Evidence	Relation with Applicant
1.	Ram Hari Shelukar	Dr. Babasaheb Ambedkar School, Bhingar, record in A. Nagar School	Hindu Nagpure Koshti	Birth Date 10/5/1932	Uncle
2.	Laxman Hari Shelukar	Dr. Babasaheb Ambedkar School, Bhingar, record in A. Nagar School	Hindu Nagpure Koshti	Birth Date 12/1/1935	Father

Similarly, the entry in the school record of the petitioner No.1/Anita Laxman Shelukar (Nagpure) is mentioned as Hindu, Halba Koshti, so also petitioner No.2/Sharada laxman Shelukar is mentioned as Hindu, Halba Koshti as under :-

Sr. No.	Name of Students	Name of School	Caste/ Sub-Caste	Admission Date in School	Relation with Applicant
1.	Anita Laxman Shelukar	Primary School record in M.C. School No.86, Makhmalabad, Nashik	Hindu Halba Koshti	Birth Date 31/5/1969 Adm. Date 12/11/1976	Applicant No.1
2.	Savita Laxman Shelukar	Primary School record in M.C. School No.16, Makhmalabad, Nashik	Hindu Halba Koshti	Birth Date 1/4/1972 Adm. Date 20/6/1977	Sister
3.	Maruti Hari Shelukar	Dr. Babasaheb Ambedkar School, Bhingar, record in A. Nagar School	Hindu Nagpure Koshti	Birth Date 5/2/1937 Adm. Date 12/4/1952	Uncle
4.	Sharada Laxman Shelukar	Adarsh Shishu Vihar (Montesary School), Nashik	Hindu Halba (Backward)	Birth Date 9/8/1974 Adm. Date 4/6/1979	Applicant No.2

11. As such, what can be noticed from the record is, the petitioners based on the school record which is of post-independence era i.e. post-constitutional era have sought to justify the claim. The fact remains that once the 1932 and 1935 caste entries of the uncle and father of the petitioners which are of pre-independence era were found to be Koshi, the petitioners owes an explanation how such entries were converted to that of Halba, Koshti, post-constitutional era in the school record of the petitioners.

12. The Vigilance Cell, so also the committee had regard to

the documents which are produced by the petitioners in relation to them, their father, brother and sister depicting caste Hindu Halba or Halba. Both these documents are subsequent to the aforesaid pre-constitutional entries. A person acquires the caste/tribe by birth. Once the parents of the petitioners were found to be Koshti, which is independently recognized as Special Backward Class, it is difficult to accept the claim of the petitioners that the petitioners belong to Halba, Scheduled Tribe. The petitioners have failed to demonstrate that the entries Halba which are recorded in school record of them, their brother, father and uncle were changed by adopting any lawful means.

13. In the aforesaid background, having regard to the provisions of Section 8 of the Act which casts burden on the petitioners to prove their tribe claim, the committee, in our opinion, is justified in recording finding that the petitioners have failed to demonstrate that they belong to Halba, Scheduled Tribe, as the petitioners have failed to bring proof and evidence as to their tribe claim.

14. As regards the reliance placed by the petitioners on the affidavit of family chronicler is concerned, the fact remains that said document i.e. affidavit of family chronicler was produced at the fag end of the proceedings i.e. sometime on 20th July, 2022. While dealing with the said affidavit of family chronicler, the respondent/committee while dealing with the same has given sufficient

reasoning based on the report of J. V. Ferreira Committee of 1985. The committee has noticed that what has been mentioned by family chronicler is contrary to the documentary evidence, particularly, such record pertains to the father and uncle of the petitioners prior to the issuance of the constitution of Scheduled Tribe order. The said family chronicler is not examined by the petitioners so as to establish their claim. What is produced by the petitioners on record is only an affidavit which is contrary to the documentary entries as is referred to herein-above.

15. Apart from above, the petitioners have failed to demonstrate cultural affinity and ethnic linkage to the Halba, Scheduled Tribe. Rather the appreciation of the material produced by the petitioners on record during the course of hearing has sufficiently established that the petitioners hold affinity to the Koshti and not Halba, Scheduled Tribe. On both counts the petitioners have failed to demonstrate that they belong to Halba, Scheduled Tribe. The Scrutiny Committee has passed the order impugned in tune with the procedure and the law prescribed. That being so, no case for interference is made out.

16. The petition as such fails and same stands dismissed.

[SHARMILA U. DESHMUKH, J.]

[NITIN W. SAMBRE, J.]