

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

WRIT PETITION NO. 293/2022

&

WRIT PETITION NO.294/2022

W.P.NO. 293/2022

* Prasad s/o Ratnakar Katole
Aged about 19 years, occu: student
R/o Gokul Nagar, Green Park Colony,
Umerkhed, Dist. Yavatmal.

..PETITIONER

versus

1) The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Through its Member-Secretary
and Deputy Director, Sanna Building
Opp: Govt. Rest House
Camp: Amravati- 444 601.

2) State Common Entrance Test Cell
Maharashtra State
8th floor, New Excelsior Building
A.K.Nayak Marg, Fort
Mumbai. 400 001 (MS)
Through its Director

3) The Dean
Indira Gandhi Government Medical College
Mayo Hospital, Central Avenue
Mominpura, Nagpur-440 018.
*(Amendment carried out as per court's order
dated 29.11.2022)*

..RESPONDENTS

.....
Mr.Ashwin Deshpande, Advocate for Petitioner
Mr.A.A. Madiwale, AGP for Respondent No.1
Mr.N.A. Gaikwad, Advocate for Respondent No.2
.....

W.P.294/2022

* Shreya D/o Subhash Katole
Aged about 18 years, occu: student
R/o At & Po: Fulsawangi, Tq.Mahagaon
Dist. Yavatmal (Presently at Nagpur).

..PETITIONER

v e r s u s

The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Through its Member-Secretary
and Deputy Director, Sanna Building
Opp: Govt.Rest House
Camp: Amravati -444 601.

..RESPONDENT

.....
Mr. Ashwin Deshpande, Advocate for Petitioner
Mr.A.A. Madiwale, AGP for Respondent
.....

CORAM: A.S. CHANDURKAR & ANIL L. PANSARE, JJ
DATED : 12th December, 2022.

JUDGMENT: (Per A.S. Chandurkar, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of learned counsel for the respective parties.
2. The common order passed by the Scrutiny Committee on 05.01.2022 invalidating the tribe claim of the Petitioners of belonging to 'Halbi' Scheduled Tribe, is under challenge. Both the Writ Petitions are being decided by this common judgment.
3. The Petitioners, by relying upon various pre-Constitutional documents, claim to belong to 'Halbi' Scheduled Tribe. While verifying their tribe claim, the Petitioners relied upon about 35 documents before

the Scrutiny Committee. A vigilance enquiry was thereafter conducted and its report was supplied to the Petitioners. In the said report dated 29.11.2021, reference was made to about 10 documents on which the Petitioners' response was sought. Two documents of the years 1926 and 1927 of the forefathers had the entry '*Marathi*'. The Petitioners submitted their say on the report of the Vigilance Cell and thereafter the Scrutiny Committee passed the order dated 05.01.2022. In Paragraph Nos. 9 and 10 of the impugned order, the Scrutiny Committee has observed that the Petitioners were found to be related to one Anand Nilkanth Katole and, while verifying the claim of Anand Nilkanth Katole, it was found that there were some entries with the word '*Koshti*'. In the impugned order, the Scrutiny Committee has observed that in some old documents, there was a reference to the word '*Marathi*' and also the fact that the Petitioners were related distinctly to Anand Nilkanth Katole. Reference was also made to the decision of the Hon'ble Supreme Court in its judgment delivered in the case of Anand Nilkanth Katole. It is thereafter that the claim of the Petitioners has been turned down.

4. *Inter alia*, it is submitted by the learned Counsel for the Petitioners that in the report of the vigilance cell, no reference was made to the documents pertaining to Anand Nilkanth Katole and, therefore,

the Petitioners were not in a position to put forth their say in that regard. It was only after perusing the impugned order that they got knowledge of the fact that the Scrutiny Committee had given due weightage to those documents. It is urged that if the Petitioners would have been put to notice that the said adverse material was to be considered, the Petitioners would have responded to the same. Hence, for want of proper notice of the adverse material, the Petitioners were handicapped.

5. In reply, it is submitted by the learned Assistant Government Pleader for the Scrutiny Committee that after following the due procedure the impugned order came to be passed. The Petitioners were aware of their relationship with Anand Nilkanth Katole and, therefore, it could not be said that they had been taken by surprise when the Scrutiny Committee relied upon his documents. As per the family tree on record, it was clear that the Petitioners were related to him. It was further submitted that the decision of this Court rendered in Writ Petition No.2512/2013, in the case of Anand Nilkanth Katole had been stayed and hence no reliance could be placed upon the same. It was thus submitted that no interference was warranted in exercise of writ jurisdiction.

6. We have heard learned Counsel for the parties and we have

perused the documents on record. It is undisputed that in the report of the vigilance cell, reference has been made to about 10 adverse documents on which the say of the Petitioners was called for. There was no reference to the documents related to Anand Nilkanth Katole and that the vigilance cell intended to rely upon the same. If the vigilance cell or the Scrutiny Committee desired to rely upon said documents, the Petitioners ought to have been made aware of the same. In other words, the adverse material supplied in the form of documents was replied to by the Petitioners. A perusal of paragraph 10 of the impugned order itself indicates that the Committee itself perused the available record that was present in the office. On the basis of the documents pertaining to Anand Nilkanth Katole, the Committee has proceeded to invalidate the Petitioners' claim. We find that the Petitioners ought to have been put to notice of all the adverse material/documents on which it intended to consider the Petitioners' claim. The same not having been done, the impugned order on that count is unsustainable.

7. In so far as the reference to the word '*Marathi*' is concerned, the learned Counsel for the Petitioners has referred to the decision in the case of Vilas Dinkar Bhat vs. State of Maharashtra and others, reported in 2021 (2) Mh.L.J. 385, wherein the Division Bench has observed that the word '*Marathi*' indicates a language and not any caste. Hence, due

weightage was not liable to be given to the said word '*Marathi*'. Since we find that the Petitioners ought to have been given an opportunity to meet all adverse documents that were proposed to be relied, it is not found necessary to go into this aspect as the Petitioners can raise this ground before the Scrutiny Committee.

8. We, therefore, find that the impugned order has been passed without supplying the entire adverse material/documents to the Petitioners and without seeking their explanation for the same. On that count, the impugned order is found to be unsustainable. Accordingly, the order dated 05.01.2022 is quashed and set aside. The proceedings are remanded to the Scrutiny Committee for granting fresh opportunity of hearing to the Petitioners. Prior thereto, the Scrutiny Committee shall supply all material, adverse or otherwise that it seeks to rely upon, while considering the tribe claim. The Petitioners shall appear before the Scrutiny Committee on 20th December, 2022, to facilitate such reconsideration. Since the Petitioners are students, the process of verification be completed within a period of six weeks from that date.

9. Rule is made absolute accordingly. No costs.

(ANIL L. PANSARE, J.)

(A.S.CHANDURKAR, J.)

sahare