

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

WRIT PETITION NO. 825 OF 2022

Satish S/o Natthusingh Sable

-- Petitioner

Vs.

State of Maharashtra and another

-- Respondents

Mr. P.S. Wathore, Advocate for Petitioner

Mr. N.R. Patil, AGP for Respondents.

CORAM : NITIN JAMDAR &
ANIL L. PANSARE, JJ.

DATE : 01 MARCH 2022

P. C. :

The Petitioner has challenged the order dated 7 October 2019 passed by the Respondent – Scrutiny Committee, Yavatmal invalidating the caste certificate issued to the Petitioner on 23 December 2011 as “Mathura Labhan” Nomadic Tribe (A) by the Sub-Divisional Officer, Pusad as the Petitioner was desirous of pursuing the higher education as his caste certificate was sent for verification to the Scrutiny Committee.

2. The Scrutiny Committee conducted Vigilance Cell Enquiry and the report was submitted. The Petitioner also submitted 9 documents before the Scrutiny Committee. In the field enquiry around 13 documents were collected by Vigilance

Cell which submitted a report on 24 July 2019. The Petitioner was given opportunity and the Petitioner submitted explanation to the Report. The Scrutiny Committee found that the Petitioner's oldest document i.e. Petitioner's great grand-father showed that entry as Mathuri. The Vigilance Cell enquiry was also found that there were various different entries in the Petitioner's documents such as Mathuri, Mathura, Mathura Laban.

3. Heard learned counsel for the parties.

4. As regards the validity certificate issued to one Govindsingh relied upon by the Petitioner in the column in the impugned order where documents are described, as regards this document the entry of relationship is not established. The Division Bench of this Court in *Dattatray Ramrao Thorat Vs. State of Maharashtra and Others*¹ has held that the Petitioner must prove relationship with the person whose validity certificate is being relied upon.

5. Under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Class and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act of 2000 the burden to establish the caste claim lies on the

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Petitioner. Considering that different entries are found in the Petitioner's documents as regards the caste, the Scrutiny Committee rightly insisted upon proof of relationship in respect of Govindsingh to dispel any doubt. The Petitioner could have produced the affidavit of Govindsingh, which the Petitioner did not produce. Petitioner sought to rely upon the genealogy. In case there is supporting evidence then genealogy through reliable source in respect of a validity certificate relied upon could be considered. But, if the validity certificate of the alleged relative is the only evidence relied upon, then the Scrutiny Committee has to be careful in ascertaining the relationship, as issuance of wrong validity certificate has a cascading effect. Therefore, for want of affidavit demonstrating relationship of Govindsingh with the Petitioner, if the Scrutiny Committee has not placed reliance upon the same the view taken cannot be considered as perverse.

6. As regards the documents produced, the Petitioner has not produced any document showing the entry as "Mathura Labhan" prior to 21 November 1961 the nomadic tribes were granted benefits. The documents showing "Mathura Labhan" are from the year 1970 onwards.

7. As regards the report of the Vigilance Cell sought to be relied upon by the Petitioner, the Vigilance Cell has recorded an observation that two persons who were interviewed stated that the

Petitioner belongs to “Mathura Labhan”. However, if the Scrutiny Committee, in absence of any reliable document and conflicting entries, has not placed reliance on the statement of these two persons in the village then there cannot be any error in that approach. The Vigilance Cell itself has produced the documents having conflicting entries.

8. Considering this position, it cannot be said that the appreciation of evidences by the Scrutiny Committee is perverse or illegal. Therefore, no case is made for interference.

9. The Writ Petition is accordingly rejected.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]