

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

WRIT PETITION NO. 4085 of 2021

Ku. Hemamalini d/o Anandrao Rodge,
(After Marriage Mrs. Hema w/o Deepak Dharmik)
Age 51 years, Occupation: Household,
R/o. Flat No.7, Krushna Kanhaiya Aprt.,
Jatharpeth, Near Divekar House,
Akola, Tq. and District Akola - 444005. **PETITIONER**

...V E R S U S...

1. State of Maharashtra through its Secretary,
Tribal Development Department,
Annex Building, Mantralaya,
Mumbai-400032.
2. The Scheduled Tribe Caste Certificate Scrutiny Committee,
Nagpur, through its Member Secretary,
Adiwasi Vikas Bhawan,
Giripeth, Amravati Road,
Nagpur-440010.
3. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati, through
its Member Secretary,
District Amravati-414601. **RESPONDENTS**

Shri Shankar Borkute, Advocate for petitioner.
Shri A.S.Fulzele, Additional Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE :- 19th SEPTEMBER, 2022.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the order passed by the Scrutiny Committee at Nagpur dated 20.04.1999. By that order the claim of the petitioner of belonging to 'Halbi' Scheduled Tribe has been invalidated.

3. This Court on 06.06.2022 after noticing that the impugned order was challenged after considerable period of time, directed the petitioner to file additional affidavit explaining the aspect of delay. The petitioner has accordingly filed her additional affidavit in which it has been stated that after the impugned order was passed on 20.04.1999 the petitioner's services were terminated for failure to submit a validity certificate. The petitioner was thereafter married on 28.04.1999 and after her marriage the petitioner was not permitted to undertake any job. For that reason, the order passed by the Scrutiny Committee was not challenged. It was however subsequently noticed that as a result of that adjudication the claim of other relatives was also being rejected and hence after the petitioner's brother - Rajesh was issued a validity certificate pursuant to the judgment of this Court in Writ Petition No.2300 of 2007 (*Rajesh A. Rodge vs. The Scheduled Tribes Caste Certificate Scrutiny Committee, Amravati and others*), the present writ petition has been filed.

In the aforesaid facts, we are satisfied that there are no malafides in raising a belated challenge to the order passed by the Scrutiny Committee. After the order of invalidation, the petitioner was not in service and was not in need of any such validity certificate. Since other relatives are pursuing their claim of belonging

to 'Halbi' Scheduled Tribe, the impugned order has been challenged. The said challenge could therefore be considered on merits.

4. Perusal of the impugned order indicates that the proceedings have been decided prior to coming into force of the Maharashtra Scheduled Castes, 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. Therein, reference has been made to the School Admission Register of the petitioner's parental aunt with the entry 'Koshti'. It is however seen that in the Vigilance Cell Report obtained in the case of the petitioner's brother - Rajesh, the same document has been referred to having the entry 'Halbi' dated 17.12.1959. We further find that the claim of the petitioner's real brother of belonging to 'Halbi' Scheduled Tribe has been accepted by this Court in the aforesaid writ petition.

In these facts and considering the order dated 06.01.2022 passed in Writ Petition No.1635 of 2021 (*Suryakant A. Rodge Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and others.*) wherein the claim of the petitioner's other brother - Suryakant has been referred to the Scrutiny Committee for a fresh adjudication, we are inclined to direct the Scrutiny Committee, Amravati to re-examine the petitioner's tribe claim.

5. Hence for aforesaid reasons, the order dated 20.04.1999 passed by the Scrutiny Committee, Nagpur is set aside. Since the documents of the petitioner fall

within jurisdiction of the Scrutiny Committee at Amravati, the proceedings are remanded to the said Committee for a fresh adjudication preferably alongwith the claim of her brother-Suryakant. To facilitate such adjudication, the petitioner shall appear before the Scrutiny Committee, Amravati on **01.10.2022**. If the record of the proceedings are available at the Scrutiny Committee, Nagpur, the same shall be forwarded to the Scrutiny Committee, Amravati. The claim shall be decided by the Scrutiny Committee on its own merits and in accordance with law.

Rule is made absolute in aforesaid terms with no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..