

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

WRIT PETITION NO.2549 OF 2021

Vinod s/o Mahadeorao Shrote,
aged about 52 years, occupation
Service as Assistant Public Prosecutor
at Yavatmal District Resident of
M-22, Shivsagar, Himalaya Vishwa
Colony, Nagpur Road, Wardha

... Petitioner.

-vs-

1. State of Maharashtra,
through its Secretary, Ministry
of Tribal Welfare and Social Justice
Department, Mantralaya, Mumbai 400 032

2. State of Maharashtra,
through its Secretary, Ministry
of Home Department,
Mantralaya, Mumbai 400 032

3. Scheduled Tribe Caste Certificate
Scrutiny Committee, Nagpur Division,
Nagpur, through its Deputy Director/
Member-Secretary, Civil Lines, Nagpur

... Respondents

Shri N. C. Phadnis, Advocate for petitioner.

Ms Mayuri H. Deshmukh, Assistant Government Pleader for respondent.

CORAM : A. S. CHANDURKAR AND SMT M. S. JAWALKAR, JJ.
DATE : March 01, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

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

The challenge raised in this writ petition is to the order dated
15/06/2021 passed by the Scheduled Tribe Caste Certificate Scrutiny

Committee, Nagpur (for short, the Scrutiny Committee) invalidating the petitioner's tribe claim of belonging to 'Halba' Scheduled Tribe.

2. It is the case of the petitioner that he and his forefathers belong to 'Halba' Scheduled Tribe. By relying upon various pre-constitutional documents wherein the entry 'Halba/Halbi' has been recorded, the petitioner seeks verification of his caste. The petitioner was selected by the Maharashtra Public Service Commission as Assistant Public Prosecutor in 2001. An order of appointment was issued to him on 31/01/2006. Since the post on which the petitioner was appointed was reserved for a candidate from the Scheduled Tribe category, his caste certificate was sent for verification. In that process the petitioner relied upon various old documents of the year 1917 and 1941. He also relied upon validity certificates issued to his blood relatives. The Scrutiny Committee however proceeded to invalidate the claim of the petitioner on the ground that the petitioner and his family members had suppressed documents which indicated some other entries. This aspect of suppression was not considered in the earlier orders and hence the Scrutiny Committee found that the petitioner would not be entitled for validation of his tribe-claim. Further the petitioner was found not having cultural affinity with the persons from 'Halba' Scheduled Tribe. On the aforesaid premise the impugned order came to be passed. Being aggrieved the said order is challenged in this writ petition.

3. Shri N. C. Phadnis, learned counsel for the petitioner submitted that in view of various pre-constitutional documents of 1917 and 1941, the Scrutiny Committee ought to have considered the probative value of those old documents and it ought to have given due weightage to the same. Further, this Court in Writ Petition No.1770/1993 (*Ku. Samiksha Mahadeorao Shrote vs. State of Maharashtra*) had upheld the claim of the petitioner's sister of belonging to 'Halba' Scheduled Tribe. Similarly, the nephew of the petitioner Sandeep was also found to belong to 'Halba' Scheduled Tribe by this Court in Writ Petition No.2497/2001 (*Sandeep s/o Babanrao Shrote vs. The State of Maharashtra and ors.*). It was not permissible for the Scrutiny Committee to ignore such adjudication by this Court nor was it permissible to ignore the validity certificates issued to the blood relatives. Merely by observing that there was alleged suppression of certain documents, it was not permissible for the Scrutiny Committee to get over the aforesaid adjudication by this Court. Placing reliance on the decision *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and ors.* 2010 (6) MhLJ 401 it was submitted that the order of Scrutiny Committee was liable to be set aside and validity certificate ought to be issued to the petitioner.

4. Ms M. H. Deshmukh, learned Assistant Government Pleader for the respondents supported the impugned order. She submitted that some blood relatives were issued conditional validity certificates and there

were some documents wherein the entry 'Halbi' was found. Since the adjudication by the Scrutiny Committee with regard to some relatives had not been challenged, the petitioner also was not entitled to receive the validity certificate. Since all relevant facts had not been placed before the Court when the earlier adjudication took place, the Scrutiny Committee examined the same and invalidated the claim of the petitioner. Hence no interference with the impugned order was called for.

5. We have heard the learned counsel for the parties and we have perused the documents placed on record. The oldest document on which the petitioner has relied is dated 03/01/1917. That is a primary school leaving certificate issued to the petitioner's grandfather with the entry 'Halbi'. Another document dated 01/03/2017 is the extract of the school register also pertaining to the petitioner's grandfather. Thereafter there is a birth extract dated 09/11/1941 pertaining to birth of a female child to the petitioner's grandfather. There is also a death extract dated 05/07/1942 of the petitioner's great grandfather with entry 'Halbi'. The Scrutiny Committee has not doubted these old documents and the same have been verified by the Vigilance Cell. Thereafter in Writ Petition No.1770/1993 this Court on 29/07/1993 while considering the case of the petitioner's sister Samiksha declared that she had proved that she belongs to 'Halba' Scheduled Tribe. This was in view of an earlier order

passed by the Scrutiny Committee in the case of the petitioner's brother Pramod on 25/05/1987 accepting the claim of belonging to 'Halba' Scheduled Tribe. There is a validity certificate issued to the petitioner's niece Rita and also to another cousin of the petitioner Suresh on 23/05/2003. Thereafter in Writ Petition No.2497/2001 that was filed by the petitioner's nephew, this Court on 20/12/2012 considered these very old documents and upheld the claim as made of belonging to 'Halba' Scheduled Tribe.

6. The orders passed by this Court referred to above or the validity certificates issued are not the subject matter of any further challenge and that adjudication has attained finality. It is thus seen that the petitioner's real brother and sister are already declared to belong to 'Halba' Scheduled Tribe and there is no reason whatsoever much less on the reasons sought to be assigned by the Scrutiny Committee to hold that the petitioner does not belong to 'Halba' Scheduled Tribe. The ratio of the decision in *Apoorva Nichale* (supra) squarely applies to the facts of the present case. Merely by stating that some material was not considered when the earlier adjudication took place cannot be a ground for denying the benefit of that adjudication to the petitioner. Accepting the contention of the Scrutiny Committee would result in the petitioner being deprived of such declaration of belonging to 'Halba' Scheduled Tribe despite the fact that his real brother and sister have been adjudicated to

belong to 'Halba' Scheduled Tribe. As stated above the documents relied upon by the petitioner herein were also the subject matter of consideration and adjudication in the earlier proceedings and said documents were accepted in favour of the petitioner's blood relatives. For all these reasons we find that the Scrutiny Committee was not justified in invalidating the tribe claim of the petitioner. The impugned order dated 15/06/2021 passed by the Scrutiny Committee is therefore found to be unsustainable.

7. Accordingly the following order passed :

- (i) The order dated 15/06/2021 passed by the Scrutiny Committee is set aside. It is declared that the petitioner has proved that he belongs to 'Halba' Scheduled Tribe which is Entry 19 in the Scheduled Tribes Order, 1950.
- (ii) The Scrutiny Committee shall within a period of six weeks from production of this order issue a validity certificate to the petitioner.

Rule is made absolute in aforesaid terms. No costs.

Pending Civil Application is also disposed of.

(Smt M. S. Jawalkar, J.)

(A. S. Chandurkar, J.)

Asmita