

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

WRIT PETITION NO. 2667 OF 2008

Piyush s/o Sanjay Wagh
Aged about 17 years,
occupation: Student, R/o 'Vakratund' B-5
Bharti Apartment, Darwah Road,
Yavatmal, Through his natural
guardian father
Shri Sanjay s/o Purushottam Wagh ..Petitioner

versus

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Irwin Chowk
Amravati Division, Amravati.
2. The Directorate of Technical Education
Maharashtra State, Mumbai-32.
3. The Principal
Government College of Engineering
Amravati Division, Amravati
(Respondent No.3 added as per
Court's order dated 18.09.2008) ..Respondents

Mr.R.S. Parsodkar, Advocate for the Petitioner
Mrs.M.H.Deshmukh, Assistant Government Pleader for Respondent
Nos.1 & 2

CORAM: NITIN JAMDAR &
ANIL L. PANSARE,JJ
DATED : 24 February 2022.

ORAL JUDGMENT : (PER NITIN JAMDAR, J.)

The Petitioner has challenged the order passed by the Respondent no.1-Scrutiny Committee, Amravati dated 16 January 2008 invalidating the caste certificate issued to the Petitioner on 29 July 2006 as belonging to 'Mana' Scheduled Tribe. The Petitioner has also sought a prayer in respect of considering the Petitioner for Engineering course from Scheduled Tribe category.

2. The Petitioner is a resident of Yavatmal(Maharashtra). The Petitioner applied for and was granted caste certificate as belonging to 'Mana' Scheduled Tribe on 29 July 2006. The Petitioner was granted caste certificate accordingly by the Sub-Divisional Officer, Kelapur on 29 July 2006. Since the Petitioner was desirous of applying for a seat earmarked for Scheduled Tribe candidate in the Engineering course, the Petitioner's caste certificate was sent for verification to the Respondent No.1-Committee.

3. The Vigilance cell enquiry was conducted as per 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 and the Rules framed thereunder. The vigilance cell submitted its report, a copy of which was given to the Petitioner. The Petitioner submitted reply to the report of the Vigilance Cell and was given hearing by the Committee.

4. The Committee observed that the Petitioner had furnished seventeen documents out of which seven documents had no entry in respect of the caste. As regards the Service Book of the Petitioner's father, it was noted that there was an entry of 'Mana' Scheduled Tribe, however, the Committee observed that it was on the basis of caste certificate. The Committee took note of the fact that the Vigilance Cell had produced entry of 'Mana-ku' which cannot be considered as an entry of 'Mana' Scheduled Tribe. The Committee thereafter referred to the decisions of the Apex Court, the fact that the Petitioner has not established his affinity in the test conducted, and by the impugned order proceeded to invalidate the caste certificate.

5. We have heard Mr.R.S. Parsodkar, learned counsel for the Petitioner and Mrs.M.H.Deshmukh, learned Assistant Government Pleader for Respondent nos. 1 and 2.

6. The Petitioner in the petition has made a specific assertion on oath that the Petitioner had submitted various documents one of which was of Kotwal Book record/Birth record of Petitioner's great grandfather Ragho Wagh Mana. Learned counsel for the Petitioner submitted that this extract is of 23 January 1918 and it shows the caste as 'Mana' having been of the great grandfather of the Petitioner, the same has not been considered. Reply affidavits have been filed by the Committee. The assertion that the Petitioner had submitted the document of Petitioner's great grandfather has not been controverted. That being the position it was obligatory on the part of the Committee to deal with the same as the document is of the year 1918 prior to the year 1950, the pre-Constitutional period. Since the Petitioner had heavily relied upon this document, if it was not considered, then while exercising certiorari jurisdiction, this omission to consider a vital piece of evidence, would vitiate the order.

7. We are of the opinion that the impugned order deserves to be quashed and set aside and the claim needs to be restored to the file of the Committee for consideration of this document of 23 January 1918 in its proper perspective along with other evidence. The Committee will have to carry out the evaluation of evidence in its totality after taking into consideration all pieces of evidence.

8. Accordingly, the impugned order dated 16 January 2008 passed by the Respondent No.1-Committee is quashed and set aside. The Case No. I-275/06 stands restored to the file of Respondent No.1-Committee.

9. The Petitioner will appear before the Committee on 21 March 2022 whereupon the Committee will give further dates in the case and set a time table.

10. Subject to earlier time bound commitments and directions, the Scrutiny Committee will make an endeavour to dispose of the claim of the Petitioner within a period of three months from the date the Petitioner appears before it.

11. The Writ Petition is accordingly disposed of. Rule made absolute in above terms.

[ANIL L. PANSARE,J.]

[NITIN JAMDAR,J.]

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