

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

WRIT PETITION NO.4507/2021

Omkar s/o Laxman Wankhade ... Petitioner

Versus

State of Maharashtra through its
Secretary, Tribal Development ... Respondents
Department, Mumbai and Ors.

Mr. R. L. Kadu, Advocate for petitioner.

Ms T. H. Khan, A.G.P. for respondents.

CORAM : ROHIT B. DEO & ANIL L. PANSARE, JJ.

DATE : AUGUST 10, 2022.

P.C.

Heard Mr. Kadu, learned counsel for the petitioner
and Ms Khan, learned A.G.P. for the respondents.

2. Caste claim of the petitioner as belonging to the
Other Backward Classes (OBC) has been rejected by the
respondent no.3-Divisional Caste Certificate Verification
Committee, Amravati.

3. The petitioner on 09.03.2015 has been appointed as Kotwal from OBC category. The caste claim of the petitioner was submitted to the respondent no.3-Committee for verification and by the impugned order dated 06.08.2020, his caste claim has been invalidated. One of the important reasons for invalidating the claim is that the petitioner failed to produce relevant documents to support his case as against the report submitted by the vigilance cell.

4. The petitioner's great-grandfather namely; Kanhu had one son by name Kisan. The said Kisan had four sons and two daughters. One of the sons is; Laxman, father of the petitioner. A document dated October-1914 in the name of Kanhu was submitted by the petitioner in support of his case. The document is an extract of Kotwal book of Mahagaon village. The entry recorded in Kotwal book relates to the birth of son to Kanhu. The caste is mentioned as Kunbi. Another document that was submitted was in respect of the grandfather of the petitioner. The document is dated 09.12.1955. It is also extract of Kotwal book showing birth of daughter namely; Shashikala to

Kisan Kanhu. The caste is mentioned as Kunbi. There are other documents also.

5. The vigilance cell report would show that these documents indeed exist. However, according to respondent no.3-Committee, these documents refer to village Mahagaon but the petitioner is residing at Kalgaon. The petitioner failed to show how documents from Mahagaon would be relevant to the petitioner's claim who is residing at Kalgaon.

6. The petitioner has stated before the vigilance officer that his great-grandfather was resident of Mahagaon. He (the great-grandfather) then has purchased three acres of land at Kalgaon and father of the petitioner has settled at Kalgaon. Thus the petitioner is also resident of Kalgaon.

7. The respondent no.3-Committee, on the basis of vigilance cell report, called upon the petitioner to submit the original documents vide notice dated 15.11.2019 and subsequent notice dated 20.01.2020. The petitioner appeared

before the respondent no.3-Committee on 29.10.2020 but did not file documents nor did he make his submissions before the Committee.

8. Learned counsel for the petitioner submits that the petitioner had no knowledge of legal language and that he was under impression and he has already filed all necessary documents through Tahsildar and therefore did not file documents and also did not make his submissions before the Committee.

9. The learned A.G.P. would submit that no fault could be attributed to the respondent no.3-Committee as sufficient opportunity was granted to the petitioner to put forth his case.

10. We do find that despite opportunity, the petitioner failed to submit documents and to make submissions as regards the report of the vigilance cell. However, the petitioner has taken a plea that he had no knowledge of legal language and

was under certain misconception that necessary documents have already been filed.

11. The petitioner is in service as Kotwal since 2015. The invalidation of caste claim has a cascading effect upon the service and few benefits that may be available to the petitioner. In the circumstances, we deem it appropriate to give one more opportunity to the petitioner to put forth his case before the respondent no.3-Committee, particularly in the light of the report submitted by the vigilance cell that the pre-Constitutional document of the year 1914, in the name of Kanhu showing caste as Kunbi, does exist.

12. Resultantly, the petition is partly allowed.

The impugned order dated 06.08.2020 passed by respondent no.3-Divisional Caste Certificate Verification Committee, Amravati is quashed and set aside. The matter is hereby relegated back to respondent no.3 to decide caste validity, afresh from the stage of giving opportunity to the

petitioner to submit documents and to respond to the vigilance cell's report dated 07.08.2019 (Anexure-E).

The petitioner to appear before respondent no.3-Committee on 29.08.2022. The respondent no.3-Committee shall make endeavour to decide caste claim, as expeditiously as possible, and in any case on or before 31.10.2022.

Respondent no.3-Committee shall decide the caste validity, without being influenced by any observation made in the body of the present order. All the contentions raised in the present petition are kept open.

Interim order dated 05.11.2021, by which service of the petitioner has been protected, shall continue till the decision is taken by the respondent no.3-Committee.

The writ petition is accordingly disposed of. No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

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