



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.4080 OF 2022

Suyash Rajiv Sable

Age : 19 years, Occu : Student,

R/o. Rawla, Tq. Soygaon,

Dist. Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

2. The Scheduled Tribe,
Caste Certificate Scrutiny Committee,
Through its Member Secretary,
Aurangabad, Division Aurangabad

3. The Principal Ratnapurti,
Junior College, Galan, Tq. Pachora,
Dist. Jalgaon

.. Respondents

...

Mr. Anandsingh Bayas, Advocate for the petitioner

Mr. S. V. Hange, AGP for Respondents No.1 & 2

...

CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.

DATED : DECEMBER 08, 2023

JUDGMENT (*PER* NEERAJ P. DHOTE, J.) :

. Rule. Rule made returnable forthwith. Heard finally
with the consent of the parties and taken up for final disposal at the
stage of admission. Perused the papers on record.

2. The Petitioner has challenged the order dated 14.02.2022 passed by the Respondent No. 2 – Scrutiny Committee invalidating his tribe claim as belonging to ‘Naikda’ Scheduled Tribe.

3. It is submitted by the learned advocate for the Petitioner that despite the validities of the said tribe claim in favour of the father and paternal uncle of the Petitioner and pre-constitutional entries of the great grandfather of the Petitioner supporting the tribe claim, the respondent no. 2 – Scrutiny Committee has invalidated the Petitioner’s claim for incorrect reasons. He further submitted that the Respondent No.2 – Scrutiny Committee has referred to the contrary entries of the year 1953 and 1959 in the school record of the Bansilal Ramdas Damodhar and Jagannath Ramdas Damodhar, who are the grandfather and cousin uncle of the Petitioner and referred to the interpolation in the old record of Ramdas Dashrath Naikda and invalidated the tribe claim of the Petitioner. It is submitted that the other grounds of invalidation are the affinity test and area restriction. It is submitted that, the impugned order be quashed and set aside.

4. It is submitted by the learned AGP that though there are pre-constitutional entries in support of the tribe claim of the Petitioner, the Respondent No.2 – Scrutiny Committee has noticed

contrary entries of the blood relatives of the Petitioner and interpolation in the old record of the blood relatives of the Petitioner. He further submitted that considering the material available on record, the Respondent No.2 - Scrutiny Committee has rightly invalidated the Petitioner's claim and have decided to re-open the earlier validity proceedings.

5. There is no dispute about the genealogy. The papers on record show that the vigilance enquiry was conducted in the matter of validity to the Petitioner's father and after following due process, the validity came to be issued to the Petitioner's father. The vigilance report in the case of the Petitioner's father records the pre-constitutional entries supporting the tribe claim of 'Naikda' in respect of the grandfather and great grandfather of Petitioner. The validity certificate issued to the Petitioner's father is not disputed.

6. The papers indicate that the Respondent No. 2 – Scrutiny Committee recorded that in the school record, against the name of Bansilal Ramdas Damodar and Jagannath Ramdas Damodhar who are shown as grandfather and cousin uncle respectively, of the Petitioner, it is found that the caste is mentioned as 'Mathure Vanjari'. It is further recorded by the Respondent No.2 – Scrutiny Committee

in the impugned order that in respect of the Bansil Ramdas Damodhar, the caste 'Mathure Vanjari' came to be scratched and 'Naikda' came to be included in the school record. The Petitioner has disputed the relations with the said Bansil Damodhar as can be seen from the reply given to the vigilance report. The Scrutiny Committee has further recorded that in the *Pahani Patrak* of Ramdas Dashrath Naikda, there is insertion of word 'Naikda' in blue pen.

7. Admittedly, the above contrary entries are of the year 1953 and 1959, which is post constitutional period. Though the Respondent No.2 – Scrutiny Committee has recorded about insertion of word 'Naikda' in different ink in the *Pahani Patrak* of pre-constitutional period, there is no dispute regarding the entry of 'Naikda' against the name Dashrath Damodhar, i.e. great grandfather of the Petitioner, in the Kotwal book in respect of birth and death entries which is of pre-constitutional period i.e. 1923. Admittedly, vide communication dated 28.12.2010, the Tahsildar, Arni has certified by issuing the letter to the vigilance cell that the copy of said entry in the birth and death register as Dashrath Damodhar 'Naikda' was issued from that office and there was no interpolation in the said entry. It is needless to state that the said entry being of pre-constitutional period will have more probative value. Even during

the vigilance enquiry of the petitioner's father, this entry is relied upon and taken into consideration.

8. As there is no dispute that the petitioner's father is issued with the tribe validity certificate of 'Naikda' Tribe by following due procedure and the oldest pre-constitutional entries of the blood relatives of the petitioner support the petitioner's claim, the petitioner cannot be denied the validity certificate of 'Naikda' Scheduled Tribe keeping in view the principles laid down by the Hon'ble Supreme Court in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.** reported in **2023 SCC Online SC 326**. The other two grounds i.e. affinity and area restrictions do not survive in the light of **Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another Vs. State of Kerala and Anr.** reported in **(1994) 1 SCC 359**.

9. In the backdrop of the above discussion, the impugned order is liable to be set aside and hence the following order:

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned order is quashed and set aside.
- (iii) The Respondent No. 2 – Scrutiny Committee shall

immediately issue tribe validity certificate to the Petitioner as belonging to 'Naikda' Scheduled Tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

(iv) The petitioner shall not be entitled to claim equities.

10. Rule is made absolute in above terms.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

GGP