

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

WRIT PETITION NO. 7766 OF 2020

Ashish s/o Venkatrao Dawewar,
Age 18 years, Occ. Education,
R/o. House No. 8, Pankaj Nagar,
Dhanegaon, Tq. & Dist. Nanded.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Medical Education Department
Mantralaya, Mumbai-32.
- 2) The Scheduled Tribe Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad, Tq. & Dist. Aurangabad.
- 3) The Commissioner & Competent Authority,
Commissionerate of Common Entrance
Test Cell, Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai-32.

... **Respondents**

...

Advocate for Petitioner : Mr. S.R. Barlinge i/b Mr. O.B. Boinwad
Advocate for Respondent Nos. 1 & 2 : Mr. A.S. Shinde

CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : **23.06.2023**

PER COURT : (PER : MANGESH S. PATIL, J.)

Heard. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner claims as belonging to Koli Mahadev scheduled tribe. He was issued with a tribe certificate but which has been cancelled and

seized by the respondent No. 2- the Scheduled Tribe Certificate Verification Committee Aurangabad constituted under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified 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 by the order under challenge.

3. Mr. Barlinge learned advocate for the petitioner would submit that the observations and the conclusions of the scrutiny committee are perverse and arbitrary. It has not considered the documents produced by the petitioner. There was utter lack of application of mind. The record of his blood relation Shantabai and Sayanna was overlooked. It has unnecessarily relied upon the alleged correction in the school record of one Vitthal, Vyankat and Sangita, to which school record the petitioner had no access. The decision of the Supreme Court in the matter of **Sayanna Vs. State of Maharashtra and Ors; 2009 (10) SCC 268** was clearly ignored. Reference has been made to record of some individuals who were not blood relatives of the petitioner. The order be quashed and set aside and the petitioner be issued validity certificate. Alternatively, the learned advocate would submit that the matter be remanded for a decision afresh by extending him an opportunity to lead additional evidence.

4. Per contra, the learned A.G.P. would submit that the scrutiny committee has taken a plausible view by referring to all the material that was available to it. This Court cannot sit in appeal. There is no perversity or arbitrariness. It was specifically noticed that there was an apparent manipulation in the school record of the petitioner's paternal uncle Vitthal Sayanna Dawewar which was the oldest entry. Other entries which were brought to the notice of the scrutiny committee were of recent origin and could not have been relied upon by the scrutiny committee. He would further submit that in some cases like Vyankat Sayanna Dawewar and Sangita Sayanna Dawewar, there was apparent manipulation. The petitioner

himself had produced school record of one Sayanna Sambhaji Dawewar of 1339 Fasli (1929 A.D.) which was sent to the vigilance cell. The original school record was verified. There was a clear overwriting in dark ink which was also not tallying with the handwriting and the colour of the ink on rest of the page and it was a clear case of manipulation. The petitioner had the opportunity to meet even this circumstance which was clearly brought to his notice and still he did not respond to it and the inference drawn by the scrutiny committee is clearly justified by the circumstances and the material available to it.

5. We have carefully considered the rival submissions and perused the papers. If one considers the material that was available before the scrutiny committee sequentially, the oldest entry available to the scrutiny committee was in respect of the petitioner's grand father Sayanna Sambhaji Dawewar. It was of the year 1929 which was produced by the petitioner himself during the hearing before the scrutiny committee. In his presence that record was sent for further scrutiny by the vigilance cell. After obtaining the report from the vigilance cell opportunity was extended to the petitioner who was present with his learned advocate to meet all these circumstances. The specific observation can be noticed in paragraph No. 4 of the impugned order in that regard. It is thus apparent that the school record of grand father Sayanna produced by the petitioner himself was subjected to further examination by the vigilance cell which submitted the report based on which the scrutiny committee has recorded its observation regarding there being circumstances indicating manipulation inasmuch as the original school record was having that entry in a different handwriting and altogether in a different ink and was effected on 06.12.2017.

6. By way of abundant precaution we have also examined the coloured photo copy of the original school register that was made available to us from the original file of the respondent scrutiny committee. In our considered view, the scrutiny committee has taken a plausible view on verification of

the school record and has reached a plausible conclusion of the record being manipulated and not reliable.

7. This leaves us with the remaining three entries which were before the scrutiny committee of that of petitioner's paternal uncle Vitthal, his father Vyankat and paternal aunt Sangita who were admitted in schools in 1966, 1973 and 1987 respectively. The scrutiny committee has remarked that there was a clear manipulation in the school record in the column of caste wherein the entries as Koli Mahadev, Mahadev Koli and Mahadev respectively were found to be added subsequently in a different handwriting and ink. To make our selves doubly sure we have carefully gone through the coloured copies of the original school register of all these three individuals which in our considered view clearly justifies the inference drawn by the scrutiny committee about manipulation and justifies its decision not to rely upon any of these three entries.

8. The submission of learned advocate Mr. Barlinge for the petitioner referring to the observations of the Supreme Court in the matter of Sayanna (supra) are clearly misplaced. As can be seen particularly from the observations in the beginning of the paragraph No. 9 in the matter of Sayanna, the report forwarded by the police inspector vigilance cell nowhere mentioned that the certificate produced by the appellant was forged one and that the police inspector had merely stated as a matter of fact that the word 'lu' was subsequently added in the school record and had not stated that this was done by the appellant therein who was the claimant. In the matter in hand, the report submitted by the vigilance cell though similarly mentioned about the words 'Koli Mahadev' having been written subsequently in the school record of Vitthal Sayanna Dawewar, even if he has not stated it to be forged one, the committee has merely refused to rely upon this record albeit committee was not able to draw an inference about the petitioner having committed that forgery. It has merely refused to rely upon these adverse entries.

9. Even in respect of the entries of petitioner's grand father Sayanna Sambhaji Dawewar, the vigilance cell reported after verification of the school record and after getting it translated that the entry at Sr. No. 176/1 was written subsequently in a dark ink and in a different hand writing stating that the transfer certificate (TC) was issued on 06.12.2017. Even in respect of one Shantabai Sayanna Dawewar petitioners paternal aunt, the school leaving certificate No. 174 relied upon by the petitioner was verified by the vigilance cell and it was noticed that in fact in that original school register name of one Datta Ganesh Umbare was appearing at Sr. No. 174 and it was stated by the vigilance cell to be a doubtful record.

10. It is therefore, quite apparent that what the respondent-scrutiny committee has done is that it has examined the vigilance report, cross checked it with the record and has drawn an inference that these entries are not reliable and has refused to issue validity certificate to the petitioner. It was suffice for it to comment upon the record being relied upon by the petitioner to draw an inference as to if that was reliable or otherwise. Therefore, in our considered view, with respect, the petitioner is not entitled to derive any benefit from the observations in the matter of Sayanna (supra).

11. As has been mentioned at the inception, it is trite that this Court cannot sit in appeal over the judgment of the scrutiny committee and can merely examine its sustainability on the basis of plausible appreciation of

the fact, circumstances and material that was available to the scrutiny committee.

12. In our considered view the above discussion is sufficient to conclude that observations and the conclusions of the scrutiny committee are neither perverse nor arbitrary. It has taken a plausible view on reasonably correct appreciation of the evidence.

13. The Writ Petition is dismissed. Rule is discharged.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-