



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

WRIT PETITION NO. 597 OF 2021

Anand s/o Dattatraya Kumbhare,
Aged about 45 years, Occu. Service,
R/o. Umarkhed, Tah. Umarkhed,
District Yavatmal.

..... **PETITIONER**

...VERSUS...

1. The Scheduled Tribes Certificates Verification Committee, Amravati.
Through its Member Secretary,
Amravati.
2. The Joint Director,
Vocational Education and Training,
Amravati Region, Amravati.
3. The State of Maharashtra, through the
Secretary, Department of General Administration,
Mantralaya, Mumbai.

...RESPONDENTS

Shri Anil Mardikar, Senior Advocate with Shri S.D.Dharaskar, Advocate for petitioner.
Shri A.A.Madiwale, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATED : 7th NOVEMBER, 2023

JUDGMENT (Per A.S.CHANDURKAR, J.)

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

2. The challenge raised in this Writ petition is to the order dated 03.11.2020 passed by the Scrutiny Committee invalidating the petitioner's claim of belonging to 'Halba' Scheduled Tribe.

3. The petitioner claims that he and his forefathers belong to 'Halba' Scheduled Tribe. On the strength of the tribe certificate dated 29.06.1987 the petitioner sought to substantiate his claim in that regard by relying upon various pre-constitutional documents. According to the petitioner his cousin uncle Punjaji was born on 08.12.1925 and in the birth extract register of said date, he was shown to be born as son to Ganpati (Haalbi). The petitioner also sought to rely upon the birth extract of his father Dattatraya who was shown to be born on 03.11.1928 as son to Ganpati (Haalbi). He also relied upon the birth extract of his other uncle Shankar who was shown to be born on 23.05.1934 as son to Ganpati (Haalbi). The petitioner also relied upon other birth extracts of his blood relatives dated 28.11.1942 with the entry 'Halbi', 02.10.1946 and 01.05.1953 both with the entries 'Halbi'. These documents were verified by the Vigilance Cell and in its report dated 27.02.2020 the Vigilance Cell noted that since the name of the grand-father of the petitioner was shown as Ganpat and not Ganpati, the old documents could not be relied. The said documents were found to be existing but in absence of relationship with the person named, the Vigilance Cell did not

accept the said documents. In the reply filed by the petitioner to the report of the Vigilance Cell, he sought to explain the aspect that Ganpat/Ganpati was the same person which could be verified by other documents of the issues of said Ganpat/Ganpati. After considering the aforesaid documents, the Scrutiny Committee by the impugned order invalidated the petitioner's claim.

4. Shri Anil Mardikar, the learned Senior Advocate for the petitioner submitted that considering various pre-constitutional documents relied upon by the petitioner it was clear that the claim of belonging to 'Halba' Scheduled Tribe had been made out. There was no reason to discard the petitioner's explanation that Ganpat/Ganpati was the name of the same person which was clear from the documents on record. The Scrutiny Committee without any justifiable basis raised a doubt on the said old documents. Further a stray entry of 'Koshti' in the subsequent documents could not be taken into consideration for discarding the petitioner's claim especially when the affidavit filed by Madhukar Punjaji Kumbhare indicating the incorrect record of 'Koshti' being made therein. Merely because the word 'Haalbi' was written in vernacular, it could not mean that the petitioner did not belong to 'Halba' Scheduled Tribe. In any event, Halba/Haalbi were shown as part of the same Entry No.19 of the Constitution (Scheduled Tribes) Order, 1950. To substantiate his contentions, the learned Senior Advocate placed reliance on

the decision in *Priya vs. Scheduled Tribes Caste Certificates Scrutiny Committee, Nagpur and others [(2013)1 Mah.L.J. 180]* , **Writ Petition No. 7946 of 2018** (*Yogita d/o Amrutrao Nimje vs. State of Maharashtra and others*) decided on 26.02.2020 and **Writ Petition No. 3758 of 2020** (*Tejas Ramesh Katole vs. The Scheduled Tribes Caste Certificate Scrutiny Committee, and others*) decided on 07.10.2021 where similar issues were considered. He therefore submitted that the claim of the petitioner ought to be upheld by setting aside the order passed by the Scrutiny Committee.

5. Shri A.A.Madiwale, learned Assistant Government Pleader for the respondents opposed the aforesaid submissions. He submitted that the Vigilance Cell rightly noted that the difference in the name of the grandfather Ganpat/Ganpati. Though the petitioner claimed to belong to 'Halba' Scheduled Tribe, the documents relied indicated the entry 'Haalbi'. In view of the 'Koshti' entry dated 13.06.1949 and 15.06.1953, the claim was rightly disbelieved. After considering all material documents the claim of the petitioner had been rightly invalidated.

6. We have heard the learned counsel for the parties at length and we have perused the records of the proceedings. At the outset we may state that Halba/Halbi are shown vide Entry No.19 of the Scheduled Tribe Order and are commonly used as synonyms of each other. In some of the documents of pre-constitutional era relied upon by the petitioner the entries of 'Haalbi' are

found. This aspect has been considered by the Division Bench in *Tejas Ramesh Katole* (supra) and the same has not been found to be very material in this regard. The entries are in vernacular and a minor difference would not be material. It is to be further noted that relationship of the petitioner with his predecessors as was indicated in the family tree is not seriously disputed by the Vigilance Cell. The name of his grand-father as indicated is Ganpat. It is seen that in the old documents the entry shown is Ganpati. The petitioner in his reply to the report of the Vigilance Cell has clearly explained that Ganpat and Ganpati is one and the same person. Without indicating any justifiable reason for discarding his explanation which appears to be quite plausible, the Scrutiny Committee has discarded the same. When the relationship of the petitioner with his other family members is not in dispute, there was no reason for the Scrutiny Committee to have discarded the petitioner's affidavit. It is also material to note that the petitioner had also filed on record the documents of the year 1945 with the entry 'Haalbi' relating to his mother and he has asserted that his parents were married in the same caste. This aspect has been ignored by the Scrutiny Committee.

The documents with the entry 'Koshti' are subsequent to the old documents of 1925, 1928, 1934, 1942 and 1945. It is well settled as held by the Hon'ble Supreme Court in *Civil Appeal No. 7117 of 2019 (Priya Pramod Gajbe vs. The State of Maharashtra and others)* that pre-constitutional documents have to be given due weightage. When the petitioner had relied

upon older documents with the entry Halba/Haalbi, it was not warranted that the subsequent documents with the entry 'Koshti' should be taken into consideration for invalidating the petitioner's claim.

7. For aforesaid reasons, we find that the Scrutiny Committee misdirected itself while ignoring the pre-constitutional documents with the entry 'Halba/Halbi, its order therefore is not sustainable. The order dated 03.11.2020 passed by the Scrutiny Committee is accordingly set aside. It is declared that the petitioner has proved that he belongs to 'Halba' Scheduled Tribe. The Scrutiny Committee shall within a period of four weeks of receiving the copy of this judgment issue a validity certificate to the petitioner.

8. Rule is made absolute in aforesaid terms with no order as to costs.

(ABHAY J. MANTRI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..