



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

WRIT PETITION NO.1845/2023

Manish S/o Amol Pusadekar,
age 17 Yrs., Occ. Education,
Since Minor through his Natural
Guardian Father Amol s/o Wasudeorao
Pusadekar, age 46 Yrs., Occ. Labour,
R/o Railway Station, Achalpur,
Tq. Achalpur, Dist. Amravati.

... Petitioner

- Versus -

1. State of Maharashtra,
through Department of Tribal
Welfare and Social Justice,
Mantralaya, Mumbai-32.
2. District Caste Certificate Scrutiny
Committee, Amravati, having
office at B-Wing, 1st Floor,
Dr. Babasaheb Ambedkar Samajik
Nyay Bhawan, Camp Road,
Amravati.

... Respondents

Mr. V.S. Giramkar, Counsel for the Petitioner.
Ms. N.P. Mehta, Assistant Government Pleader for the
Respondents.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 7.9.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner has challenged the order passed by the Caste Scrutiny Committee, Amravati dated 31.12.2022 invalidating the tribe claim of petitioner belonging to tribe “Bhope” which is recognized as Nomadic Tribe (B) by Government Resolution dated 21.11.1961 at serial No.4. The petitioner who is a student has submitted the documents along with the tribe validity certificate of his real sister Prachi D/o Amol Pusadekar issued by the respondent No.2 on 30.9.2020. The petitioner was called upon to submit his explanation on Police Vigilance Report vide notice of hearing dated 9.11.2022. On 15.11.2022 the father of petitioner submitted his explanation thereby pointing out that the petitioner belongs to Tribe “Bhope” which is recognized as Nomadic Tribe. He has given the explanation that the *Bhape* is not the tribe, however, due to

clerical error the name of Ghansham Digambar Bhope is mentioned as *Bhape* and pursuant to the sale deed dated 4.2.1931 the tribe of petitioner is “Bhope”.

3. The respondents have rejected the claim of the petitioner only on that basis of document of *Bhape* and not considered the validity certificate of his blood relative. The judgment in the case of *Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and others* reported in **2010(6) Mh.L.J. 401** is also not considered by the respondents while rejecting the tribe claim of the petitioner ignoring the validity certificate issued to his blood relative. Hence prayed to issue the tribe certificate to the petitioner by setting aside the order passed by the Scrutiny Committee.

4. The respondent Scrutiny Committee has opposed the petition stating that the petitioner failed to produce the documentary evidence about the tribe “Bhope”. It is submitted

that when validity certificate is issued to the blood relative of the petitioner, without following the procedure i.e. verification of vigilance cell, then Scrutiny Committee is not required to consider it. As there is no documentary proof to prove that the petitioner belongs to “Bhope” tribe, the Committee has rightly rejected the tribe claim of the petitioner.

5. Heard both parties. Perused the record.

6. The tribe claim of the petitioner is rejected without considering the validity certificate issued to the real sister of the petitioner. The reason given for not considering said certificate as it was without conducting the Vigilance Cell Enquiry and there is no documentary proof about the tribe “Bhope”. Documents which the petitioner has filed on record are of Bhope tribe. Names of said persons are shown in family tree which shows that the tribe of the petitioner is “Bhope”. There is only one document about tribe Bhape to which the father of petitioner has given

explanation that there is typographical mistake. The real sister of the petitioner has received the tribe validity certificate on the basis of the same documents.

7. Insofar as the aspect of affinity is concerned, this issue has now been decided by the Hon'ble Supreme Court in its decision in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and others reported in **2023(2) Mh.L.J. 785**. It has been held therein that Report of the Vigilance Cell cannot be treated as a litmus test. The entire material on record has to be considered while verifying the tribe claim of a candidate.

8. Considering the observations made in the case of Apoorva Vinay Nichale (supra) and Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra) the petitioner is entitled for the validity certificate. Hence we pass the following order:-

(i) The order passed by the Scrutiny Committee dated 31.12.2022 is quashed and set aside.

(ii) It is held that the petitioner has proved that he belongs to 'Bhope' Nomadic Tribe (B).

(iii) The Scrutiny Committee shall within a period of four weeks of receiving the copy of this judgment issue validity certificate to the petitioner.

9. Rule is disposed of in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)