



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

WRIT PETITION NO. 1124/2018

PETITIONER: Shri Nilesh Ramesh Vyas,
Aged 38 years, Occu: Employed,
R/o Village Umarsara,
District- Yavatmal.

...V E R S U S...

RESPONDENTS 1] District Caste Certificate Scrutiny
Committee, Yavatmal. Dr. Babasaheb
Ambedkar Social Justice Bhavan,
Kalaswadi Camp, Daravha Road,
District Yavatmal-445 001.

2] Divisional Controller,
Maharashtra State Road Transport
Corporation, Yavatmal.

Mr. Sanjay A. Nerkar, counsel for the petitioner.
Mr. M.K. Pathan, AGP for the Respondent No.1.
Mr. P.S. Gawai, counsel for the respondent No.2.

CORAM : **AVINASH G. GHAROTE &**
URMILA JOSHI-PHALKE, JJ
DATE : **06/09/2023**

JUDGMENT : (PER : URMILA JOSHI-PHALKE, J)

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

2. The petitioner has challenged the order of the Caste Scrutiny Committee invalidating the claim of the petitioner who claims to be of 'Bhat' Community which comes under the Other Backward Class, category.

3. At the outset, the contention of the petitioner is that he belongs to the "Bhat" Other Backward Class. His father Ramprasad Maniram Vyas was recorded as "Bhat" (Banjara Bhat) and he was also recorded so in his school record. The petitioner's great-grandfather namely Kalu Ghasi was also referred as "Bhat" in the entry at Mouza Bothbodan, Yavatmal, where they resided for some time. The petitioner's Aunt namely Kamala Maniram Vyas has also been recorded as "Bhat" in the school leaving certificate. Thus, there are consistent entries in the record, showing his forefather belongs to Bhat O.B.C.

4. It is further contended that the petitioner having passed his Higher Secondary Examination applied for a job and secured a job as a driver in the Maharashtra State Road Transport Corporation as an Other Backward Class candidate. Now, he is in need of a Caste Validity Certificate and therefore, his caste was referred for validation. The vigilance was conducted and the vigilance report is also supporting the

case of the petitioner, showing that he belongs to the Bhat Community. After the vigilance report, the show cause notice was issued to him which was replied by him. He was wrongly recorded as 'Thakur' in the school leaving certificate issued by the Upper Primary School, which he had clarified in his reply to the notice issued by the Caste Scrutiny Committee. There are consistent entries showing that he as well as his forefather belong to the Bhat Community. The Caste Scrutiny Committee did not consider the same and wrongly invalidated the claim. The order passed by the Caste Scrutiny Committee deserves to be set aside.

5. The respondents submitted that the petitioner was appointed on the post of Bus Driver by the Corporation in the Reserved Category, subject to verification of his caste claim through the District Caste Certificate Scrutiny Committee. The petitioner was terminated by the respondent/Corporation on 24/02/2018. During the inquiry conducted by the Caste Scrutiny Committee, the petitioner did not submit the true family tree and did not prove the affinity test. Due to which, the caste claim was invalidated. Thus, the order passed by the Caste Scrutiny Committee is legal and proper one, and no interference is called for.

6. Learned counsel for the petitioner submits that the impugned order passed by the Caste Scrutiny Committee is erroneous and illegal. The Caste Scrutiny Committee had

not considered the documents of pre-independence era which substantiated the claim of the petitioner. The vigilance report also supports the petitioner's claim. The learned counsel for the petitioner invited our attention to various documents as well as the family tree. The family tree which was produced before the Caste Scrutiny Committee by way of affidavit shows that one Ghasi Bhat was the ancestor of the petitioner having son namely Kalu, the said Kalu was having son Maniram alias Kanhaiyalal who is claimed to be the grandfather of the present petitioner. As per the family tree submitted before the Committee, the said Maniram was having two sons Ghanram, Ramesh and one daughter Kamla. The Caste Certificate issued to the present petitioner by Sub-Divisional Officer shows that he belongs to Bhat Community. The school leaving certificate of his father issued by "Zilla Parishad High School Mandavi also recorded his father as a Banjara (Bhat) Community.

7. The petitioner also placed reliance on the extract of the birth showing that the said Kalu has recorded the birth entry of his son namely Kanhaiyalal, who was born on 20/09/1943. The uncle of the present petitioner namely Maniram was also recorded to be a Bhat Community and the aunt of the petitioner Kamla Maniram was also recorded as a Bhat. Another uncle of the petitioner Dhanram Maniram Vyas, whose school admission extract is produced on record

which also shows that he was admitted in the school on 21/07/1965 and recorded to be Bhat. Thus, it is submitted that there are consistent entries in the name of the forefathers of the petitioner showing that the petitioner belongs to the Bhat Community and prays for the issuance of a caste validity certificate.

8. Per contra, learned AGP submitted that the petitioner has not produced the relevant documents to substantiate his claim and therefore, the committee has invalidated the claim, and therefore, no interference is called for.

9. After hearing both the parties at length and after perusing the record maintained by the Scrutiny Committee, which apparently shows that the petitioner mainly relied upon the genealogical tree which shows that one Ghasi Bhat was the ancestral of the petitioner having one son namely Kalu. The said Kalu was having one son namely Maniram and said Maniram was having two sons Ghanram, Ramesh and one daughter Kamla. The petitioner further placed reliance on the pre-independence document which shows that the said Kalu has recorded the birth date of his son Kanhaiyala as 20/09/1943. If the said birth extract is perused, it nowhere shows the full name of the said Kalu and only mentioned as Kalu resident of Ghasi Bhat. The petitioner further placed reliance on the birth admission extract of his

uncle Ghanram Maniram Vyas, was recorded as Bhat. Kamla Maniram, his Aunt recorded as Bhat and Maniram, who his grandfather who was also recorded as a Bhat.

10. As per the submission of the petitioner, his father's name is Ramesh, whereas all the documents filed by the petitioner in respect of the entry in the school, as regards the admission of his fathers in school shows his name as Ramprasad. Admittedly, the petitioner has not mentioned the name of his father as Ramprasad in the genealogy tree. It further revealed from the Police Vigilance report, that Kaluram, who was claimed to be the ancestor of the petitioner was having three sons Maniram @ Kanhailal, Aniram and Pannalal. The said Maniram was having four sons namely Dhaniram, Mohan, Prakash and Ramesh who is claimed be the father of the petitioner and daughter Kamala. If the affidavit of the petitioner is considered, he has only shown one son to Kaluram namely Maniram @ Kanhaiyalal, whereas Kaluram was having three sons Maniram @ Kanhaiyalal, Aniram and Pannalal. The family tree further shows that the Maniram was having four sons and one daughter. In the family tree, only the names of two sons Ghanram and Ramesh are mentioned and the names of Mohan and Prakash are not mentioned by the petitioner. Thus, the petitioner has not placed before the Scrutiny Committee, the correct genealogical tree and his relationship

with the other family members.

11. On perusal of the order passed by the Caste Scrutiny Committee, it shows that the petitioner has not produced any documents on record, showing his relationship with Kaluram @ Ghasi Bhat, though, sufficient opportunity is granted to the petitioner. The petitioner himself has admitted that after the Police Vigilance Cell, the show cause notice was issued to him and he replied the said notice. The copy of the Police Vigilance Cell was also forwarded to him with the said show cause notice. In the Police Vigilance Cell, specifically, the names of entire family members i.e. names of sons of Kaluram were mentioned, whereas the names of four sons and one daughter of Maniram were also mentioned. After receipt of the said Vigilance Cell also, the petitioner has not adduced any evidence to show that two sons of Maniram, whose names were not mentioned in the family tree are his uncles. The petitioner has claimed that his father Ramesh belongs to the Bhat Community, however, the documents placed on record show the name as Ramprasad and not Ramesh.

12. The findings recorded by the Caste Scrutiny Committee are on the ground, that the petitioner failed to produce on record the documents which show his affinity with Kaluram and therefore, invalidated the caste claim of the petitioner.

13. Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (for short 'the Rule of 2003') being relevant, is reproduced below :

“12. Procedure to be followed by Scrutiny Committee.

(2) If the Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant the Scrutiny Committee shall forward the applications to the Vigilance Cell for conducting the school, home and other enquiry.”

It is the discretion of the Scrutiny Committee whether the claim is to be forwarded to the Vigilance Cell for conducting school, home and other enquiry. If the Scrutiny Committee is not satisfied with the documentary evidence produced, then only it can forward the documents to the Vigilance Cell. But if the Committee records its satisfaction on the basis of documentary evidence produced and issues a validity certificate, it cannot question its correctness, legality or binding nature or finality attached to it under sub-section (2) of Section 7 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Maharashtra Act No.XXIII of 2001) on the ground that the Police Vigilance Cell enquiry was not conducted. The Committee, in our view, was wrong in ignoring the caste validity certificates issued in the name of the father of the petitioner validating his claim for 'Mana Scheduled Tribe'.

31. This question has been dealt with by the Division Bench of this Court in the case of Apoorva d/o Vinay

Nichale v. Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in 2010(6) Mh.L.J. 401. Para 7 of the said decision being relevant, is reproduced below :

“7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the Committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.”

The relevant portion in para 9 of the said decision is also reproduced below :

“9. ... In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for

cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.”

It is not the finding of the Committee that the father of the petitioner obtained the caste validity certificate by playing a fraud or that the grant of certificate was without jurisdiction. On the contrary, the certificates indicate that the same are issued in view of the decision of the Apex Court in Civil Appeal No.5270 of 2004. A merely different view on the same facts in a subsequent case of blood relative would not entitled the Committee to reject the claim. If the Committee is permitted to alter or change its view repeatedly, it would create an anomalous situation that each of the blood relatives would be of different caste/tribe and finality attached would become redundant. In our view, therefore, the Committee ought to have validated the certificate in favour of the petitioner.”

14. In the present case, the petitioner had not produced on record the true genealogical tree and not proved his relation with the original ancestor Kalu regarding whom the pre-independence entry and regarding the birth of the son of the Kalu was recorded.

15. Rule 11(2) of the Rules of 2003, enumerates a list of documents to be filed along with the application to the Caste Scrutiny Committee. Rule 12 prescribes the procedure to be followed by the Caste Scrutiny Committee on receipt of such application in the prescribed format. It provides that if

the Caste Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant, it shall forward the application to the Vigilance Cell for conducting the school, home and other enquiry. Sub-rule (3) of Rule 12 requires the Vigilance Officer to visit the local place of residence and the original place from where the applicant hails and usually resides. The rules further stipulate that the Vigilance Officer shall personally verify and collect all the facts about the social status claimed by the applicant or his parents or guardians, as the case may be. He is also required to examine the parents or the guardians or the applicant for the purpose of verification of their tribe. It is evident that the scope of enquiry by the Vigilance Officer is broad-based and is not confined only to the verification of documents filed by the applicant with the application or the disclosures made therein. Obviously, the enquiry, supposed to be conducted by the Vigilance Officer, would include the affinity test of the applicant to a particular tribe to which he claims to belong. In other words, an enquiry into the kinship and affinity of the applicant to a particular Scheduled Tribe is not alien to the scheme of the Act and the Rules. In fact, it is relevant and germane to the determination of social status of an applicant.

16. Thus burden of proving the caste claim is upon the petitioner. He was under obligation to produce all requisite documents in support of his claim. The Caste

Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinise the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the committee cannot gather evidence on its own to prove or disprove his claim.

17. In the light of the aforesaid discussions, we do not find any illegality in the order passed by the Caste Scrutiny Committee, therefore, the petition deserves to be **dismissed** and is accordingly dismissed. No orders as to costs.

18. Rule is discharged.

(URMILA JOSHI-PHALKE, J)

(AVINASH G. GHAROTE, J.)