

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

WRIT PETITION NO.3150 OF 2022

Shreyas Deorao Katole, Aged **Petitioner**
about 18 years, Occup. Student,
R/o Gadchiroli, Tahsil and District
Gadchiroli.

-Vs.-

The Committee for verification of **Respondents**
Tribe Certificates, Yavatmal
through its Member Secretary,
District Yavatmal.

Mr.K.S.Narwade, counsel for the petitioner.
Mr.M.K.Pathan, A.G.P. for respondent

**CORAM:ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 12th APRIL, 2023

ORAL JUDGMENT (Per : Vrushali V.Joshi, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner has invoked the extraordinary writ jurisdiction of this Court under Article 226 and 227 of the Constitution of India to assail the order passed by the Scrutiny Committee on 11.03.2022 by which the caste claim of the petitioner 'Halbi' has been invalidated.

4. The petitioner is taking education and is preparing for the National Eligibility Entrance Test. His tribe status was referred for verification to the respondent Committee. When his tribe claim was pending, he was offered a seat for Bachelor of Pharmacy from the seat reserved for Scheduled Tribe. The petitioner belong to 'Halbi' Scheduled Tribe which is recognised in the Scheduled Tribe list at entry No.19. The petitioner has submitted the documents to the Scrutiny Committee such as school leaving certificate of the year 1931 in respect of his grandfather. The document of the year 1925 and 1926 which shows two girl children born to his great grandfather Deoji and Kotwal book entry to that relevant

year was submitted. Besides these documents, the petitioner has submitted school leaving certificate in respect of his father and himself.

5. The petitioner has submitted the school admission entry in respect of his father dated 1st July 1980, as the vigilance cell called the petitioner to remain present for hearing on 07.02.2022 before the Committee. The petitioner and his family required to shift for the purpose of livelihood and job at various Municipal places and ultimately his father received a job in the government Hospital, Gadchiroli as a Carpenter. The enquiry as regards the validity of the tribe claim of his father is also pending with the Scrutiny Committee at Amravati. The protection is granted to the petitioner's father on the service by this Court. The learned counsel for the petitioner has stated that while rejecting the caste claim of the petitioner, Committee has mostly referred the petitioner as 'Koshti', while there is not a single

document of the year 1920-1931 considered by the Scrutiny Committee. The Committee has referred the certain surnames having resembleness with the surname of the petitioner. Such resembleness of surname cannot be the basis for assessing the claim of the petitioner, therefore, the reference to certain surname is irrelevant, who are not shown as the Halbi caste. The committee has emphasized that the Halba Koshti/Halbi Koshti are sub-caste of the Koshti, therefore such caste cannot be referred to as the 'Halbi'. There is no dispute about this proposition of law laid down by the Hon'ble Apex Court. On the contrary, it help the petitioner. There is not a single document which would show single entry as Halba Koshti/Halbi Koshti as regards the petitioner or his relatives.

6. The Committee further referred to the surname which resembles with that of persons, who have given up their claim as 'Halbi' Scheduled Tribe for their own

difficulties and reasons, however such giving up of the claim of 'Halbi' by such people cannot have bearing on the merits of the claim of the petitioner for the reasons that the petitioner does not have any other document to treat him different than 'Halbi'. Hence, prayed to set aside the order of invalidation of the caste of the petitioner and declare him as 'Halbi'.

7. The Caste Scrutiny Committee has filed the reply and opposed the petition considering that the petitioner is possessing necessary document from which it is clear that after 1976 area restriction is removed. Such a finding cannot be arrived at. The contention of the petitioner that before year 1982 Tahasil Umarkhed and Mahagaon were part of Pusad Tahasil, which has bifurcated in the year 1981. In this regard, it is merely a statement and no documentary evidence is placed on record by the petitioner.

8. The socio-cultural affinity and information furnished by the petitioner's father recorded during hearing Vigilance enquiry and the report submitted by the Vigilance Cell Officer clearly shows that the petitioner could not prove his socio cultural affinity with 'Halbi' Scheduled Tribe.

9. After going through the record of the Caste Scrutiny Committee and the reasons given by the caste Scrutiny Committee for invalidating the caste claim of the petitioner, we found that the Scrutiny Committee has also admitted that the documents which the petitioner has filed on record are of pre-constitutional document and having mentioned the caste 'Halbi'. Though the Committee has conceded about said documents having 'Halbi' caste, the claim was rejected that the persons having similar surname are taking the disadvantage of said caste and claiming the caste certificates. There is not a single entry of 'Koshti'. About affinity test, it is not a

litmus test is articulated by the Hon'ble Apex Court. As by the documentary evidence the petitioner has proved that he is of 'Halbi' caste, it is required to set aside the order passed by the Caste Scrutiny Committee, accordingly the order passed on 11.03.2022 passed by the Committee for verification of tribe certificates Yavatmal is set aside. Direction is given to the Committee to issue validity certificate to the petitioner that the petitioner belongs to the Scheduled Tribe 'Halbi'.

10. Rule is made absolute in the above terms. No order as to costs.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)