

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

WRIT PETITION NO.3204 OF 2022

Petitioner : Ayush Nilesh Kale
Age 17, Occu. Education,
R/o Kholapur, Tq. Bhatkuli, Dist. Amravati.

– Versus –

Respondent : District Caste Certificate Scrutiny Committee,
Amravati, Tq. & Dist. Amravati.

Mr. N.A. Gawande, Advocate for the Petitioner.
Mrs. K.R. Deshpande, A.G.P. for the Respondent sole.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRAGADE, JJ.**
DATE : **16th JANUARY, 2023.**

J U D G M E N T : (Per Y.G. Khobragade, J.)

Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

02] In the present petition, the petitioner has challenged the order dated 25/01/2022 passed by the respondent-Scrutiny Committee, Amravati thereby invalidating the caste claim of the petitioner of belonging to 'Patvi' Other Backward Class.

03] It is the case of the petitioner that he obtained the caste certificate of 'Patvi', which is duly recognized as Other Backward Class in the State of

Maharashtra at Sr.No.126. Since the petitioner is pursuing his H.S.S.C. education from P.R. Pote Patil International School, Amravati, a proposal for verification of the caste claim of the petitioner as “Patvi” Other Backward Class was forwarded to the Scrutiny Committee. The petitioner was granted the caste certificate of “Patvi” on 17/09/2019. In support of such claim, the petitioner sought to rely upon the documents of his great grandfather i.e. Extract of Admission in the school on 14/06/1930, which is a per-constitutional document and Kotwal Panji dated 03/02/1951.

04] Having heard both the sides and taking into consideration the documents placed before us, we find that while invalidating the caste claim of the petitioner, the respondent-Scrutiny Committee has ignored the documents, wherein the caste of the great grandfather of the petitioner, namely Motilal Kanaiyalal is shown as “Patvi” Other Backward Class, so also the School Leaving Certificate issued by the Principal P.R. Pote Patil International School to the petitioner on 17/08/2020., wherein the caste of the petitioner is shown as “Gujarathi Patvi”. The respondent-Scrutiny Committee despite noticing the above documents, invalidated the caste claim of the petitioner on the basis of documentary evidence, vigilance report and affinity test. It is to be noted that the Scrutiny Committee has erroneously relied upon the school leaving certificates of the petitioner’s father and grandfather, wherein the caste is

mentioned as “Gujarathi”.

05] The Apex Court in its judgment in the case of Anand Katole vs. Scheduled Tribe Caste Certificate Scrutiny Committee – 2011 (6) Mh.L.J. 919, has held that per-constitutional document will have to be given a greater probative value than the affinity test. The learned Counsel for the petitioner has submitted that in the present case the petitioner had supplied the per-constitutional document of the petitioner’s great grandfather, wherein the caste was clearly recorded as “Patvi” in the year 1930. Merely because the petitioner’s father’s school leaving certificate and his school leaving certificate mentioned the caste as “Gujarathi Pavti” or “Gujarathi”, this cannot override the per-constitutional document of the petitioner’s great grandfather, which has recorded his caste as “Pavti”.

06] Further the judgment of the coordinate bench of this Court in Balayya alias Balraj s/o Hiralal Pagade (Pagale) vs. State of Maharashtra – 2016 Mh.L.J. Online 25 also supports the petitioner’s case as it is found that “Gujarathi” cannot be considered as a caste, but is an official language and that the caste would be “Patvi”, which is a Other Backward Class.

07] In the circumstances, the Scrutiny Committee ought to have granted validity certificate in favour of the petitioner, as the vigilance cell enquiry or

affinity test would not be decisive in the facts of the present case. We are of the considered view that the respondent-Scrutiny Committee has fallen in a serious error in refusing to issue validity certificate in favour of the petitioner.

In the result, the following order is passed:

ORDER

- I. The writ petition is allowed.
- II. The impugned order dated 25/01/2022 passed by the respondent-Scrutiny Committee is hereby quashed and set aside.
- III. We direct the respondent-Scrutiny Committee to issue caste validity certificate in favour of the petitioner as he belonging to 'Patvi' Other Backward Class within a period of four weeks from the date of receipt of copy of this order.
- IV. It is declared that the caste certificate describing the petitioner's caste as "Patvi" Other Backward Class is valid, legal and subsisting.
- V. Rule is made absolute in the aforesaid terms with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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