



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

WRIT PETITION NO. 5096 of 2021

Raghunandan Dashrath Parate
Aged 59 years, Occupation-Retired
R/o. Plot No.32, Juna Subhedar Layout, Sharda Chowk,
Behind Bank of Maharashtra,
Ayodhyanager, District Nagpur-24. **PETITIONER**

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

1. State of Maharashtra,
Through its Principal Secretary, Tribal Development Department,
Govt. of Maharashtra, Ministry of Tribal Development,
Mantralaya, Mumbai.
2. Vice-Chairman,
Scheduled Tribe Caste Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan,
Giripeth, Nagpur.
3. Deputy Director (Research) and Member Secretary,
Scheduled Tribe Certificate Scrutiny Committee,
Nagpur.
4. The Commissioner,
Tribal Research and Training Institute,
Pune.

Respondent
nos.5 to 7
deleted as
per Court's
order dated
28.02.2022
Sd/- Counsel
for petitioner

5. ~~Shri Vinod Patil,~~
~~Vice-Chairman of Caste Scrutiny Committee,~~
6. ~~Manoj Chavan,~~
~~Member Secretary of~~
~~Caste Scrutiny Committee, Nagpur.~~
7. ~~Ganesh Ivate,~~
~~Member of Caste Scrutiny Committee, Nagpur.~~
8. Chief Engineer (Technical)
Maharashtra State Power Generation Company Ltd.
Extrella Batteries, Expn Building, Dharavi Road,
Matunga, Mumbai-400 019.
9. Chief Engineer(Gen. O and M)
Khaparkheda Thermal Power Station.
M.S.P. G.C.L., at Khaparkheda,
Tahsil Saoner, District Nagpur, Pin-441 102. **RESPONDENTS**

Shri Anil Mardikar, Senior Advocate with Shri Anil Dhawas, Advocate for petitioner.

Ms S. S. Jachak, Assistant Government Pleader for respondent Nos. 1 to 4.
Shri O.A.Ghare, Advocate for respondent no.9.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

ARGUMENTS WERE HEARD ON : 01.08.2023

JUDGMENT IS PRONOUNCED ON :05.10.2023

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

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

2. Challenge raised in the present writ petition is to the order passed by the Scrutiny Committee on 03.06.2020 thereby invalidating the petitioner's claim of belonging to 'Halba' Scheduled Tribe. The petitioner has also prayed that his employer be directed to release all his service benefits pursuant to his superannuation from service.

3. The petitioner claims to belong to 'Halba' Scheduled Tribe. He came to be appointed on the post of Chargeman Grade-II on 30.06.1983 with the erstwhile Maharashtra State Electricity Board-respondent no.8. During the course of service, he came to be promoted. While holding the post of 'Assistant Engineer', his tribe certificate was referred for verification. In support of such claim the petitioner relied upon various old documents of his

fore-fathers with the entry 'Halba'. The Scrutiny Committee conducted an enquiry through its Vigilance Cell and it noted various other documents relating to the petitioner's blood relatives that had the entry 'Koshti'. After granting an opportunity to the petitioner to respond to the observations of the Vigilance Cell, the Scrutiny Committee by its order dated 03.06.2020 proceeded to invalidate his claim.

4. Shri Anil Mardikar, learned Senior Advocate for the petitioner referred to various documents that were produced by the petitioner and verified by the Vigilance Cell to submit that the pre-constitutional documents indicated that the forefathers of the petitioner belonged to 'Halba' Scheduled Tribe. From the family tree of the petitioner, it was pointed out that his father was Dashrath while his grand-father was Madhorao. Referring to School Leaving Certificate of his father Dashrath wherein it was stated that his father had taken education at the School run by the Nagpur Municipal Corporation from 19.04.1916 to 30.04.1918, it was submitted that Entry No.4369 in the Outward Register of the School indicated the entry 'Halba'. The Scrutiny Committee was not justified in ignoring the said document on the premise that it noticed a difference in the handwriting as regards the said entry. It was submitted that neither the petitioner nor his father were responsible for any alleged overwriting/change of ink with regard to said entry and therefore the petitioner could not be deprived of the benefit of the

same. Reference was made to the decision in *Sayanna vs. State of Maharashtra and others [(2009) 10 SCC 268]*. It was submitted that in the report of the Vigilance Cell a document relating to one Dasru Madhavrao was sought to be relied upon which had the entry 'Koshti'. The name of the petitioner's father was Dashrath and therefore the said document showing the birth of Dasru on 01.07.1920 from village Wakodi, Taluka Saoner was not liable to be relied upon. Reply to the report of the Vigilance Cell had been given by the petitioner clarifying this relevant aspect. The said reply was not taken into consideration while invalidating the petitioner's claim. Since the oldest documents of the period from 1916 to 1918 had the entry 'Halba', the Scrutiny Committee ought to have allowed the petitioner's claim. By relying upon a document of a person not related to the petitioner, his claim had been invalidated. As a result of the order of invalidation, the petitioner had not been paid his retiral dues. It was therefore submitted that after setting aside the order passed by the Scrutiny Committee, a direction be issued to the employer to release the petitioner's retiral benefits. The learned Senior Advocate also referred to the decision in **Writ Petition No.3001/2022** (*Ashok Anandrao Dhapodkar vs. The Scheduled Tribes Caste Scrutiny Committee and another*) and prayed that the writ petition be allowed.

5. Ms S.S.Jachak, learned Assistant Government Pleader for the respondent nos. 1 to 4 supported the order passed by the Scrutiny Committee. She submitted that during the course of vigilance enquiry the statement of petitioner's brother Shriramchandra came to be recorded. In the said statement he had stated that the family was residing at village Wakodi, Taluka Saoner, District Nagpur and that the ancestral house of the family was located there. On the basis of his statement, the school records from the Zilla Parishad Primary School, Wakodi were examined and the entry pertaining to the petitioner's father Dasru of the year 1928 was found. Similarly, the documents pertaining to other blood relatives with the entry 'Koshti' were also found. Further it was noted that the claim of the petitioner's real brother and sister had been invalidated by the Scrutiny Committee and the said orders had attained finality. Since the claim of the petitioner's blood relatives had been invalidated, it was not permissible for the petitioner to claim otherwise. After considering all relevant aspects, the Scrutiny Committee proceeded to invalidate the claim of the petitioner. Since the document of the period from 1916 to 1918 on which the petitioner sought to rely, was found to be doubtful, there was no reason to interfere with the order passed by the Scrutiny Committee.

Shri O. A. Ghare, learned Advocate appearing for the respondent no.9 submitted that since the petitioner had claimed that he belongs to 'Halba' Scheduled Tribe, his Tribe Certificate had been referred for

verification. Based on the outcome of the challenge raised to the order passed by the Scrutiny Committee, the respondent no.9 would take an appropriate decision.

6. We have heard the learned counsel for the parties. We have also perused the records maintained by the Scrutiny Committee that were produced for perusal. The petitioner seeks to rely upon the School Leaving Certificate issued by the Head Mistress, Trimurtinagar Municipal School, Nagpur to contend that for the period from 19.04.1916 to 30.04.1918 the son of Madhorao and Janabai named Dashrath had taken education when he was admitted to the second standard. The caste recorded is 'Halba'. Dashrath is the father of the petitioner. On the other hand, the Vigilance Cell has sought to refer to the extract of birth of a son to Madhavrao on 01.07.1920 named Dasru. The said document indicates that the child Dasru was admitted in the School on 02.04.1928 in the first standard. The petitioner disputes any connection with this document by urging that the name mentioned is Dasru while his father's name is Dashrath.

7. Before considering this aspect, we find that as per the names of the family members indicated in the family tree that has been prepared on the basis of information supplied by the petitioner vide his affidavit dated 20.09.2013 placed before the Scrutiny Committee, Madhorao had four sons namely Vithoba, Naru, Dashrath and Gopichand. With regard to Vithoba, the

report of the Vigilance Cell at Item 8 has referred to the School Register from the Zilla Parishad School, Wakodi, Nagpur which indicates that the date of birth of Vithoba Madhorao Koshti was shown as 1938 and the entry in the School is shown on 01.04.1946. If according to the petitioner the eldest son of Madhorao was Vithoba and his year of birth is shown as 1938 then the document sought to be relied upon by the petitioner indicating education being taken by the younger brother of Vithoba namely Dashrath between the period from 11.04.1916 to 30.04.1918 in second standard would indicate that Dashrath was born probably sometime in 1910-11. On the other hand, the document referred to by the Vigilance Cell pertaining to Dasru Madhavrao Koshti indicates the date of birth as 01.07.1920 and states that he was admitted in School on 02.04.1928. Thus, both these documents, one indicating probable year of birth as 1910-11 with the entry Dashrath and the other indicating the date of birth as 01.07.1920 pertaining to Dasru Madhavrao Koshti cannot be reconciled with the document of the elder brother of Dashrath, namely Vithoba since his year of birth is shown as 1938.

We find from the record that Dashrath had seven issues being five sons and two daughters. The date of birth of his elder son - Nareshchandra is shown as 11.04.1952, the year of birth of his second son - Shriramchandra is shown as 1956 while that of the petitioner is shown as 07.07.1961. His younger brother-Parmanand is shown to be born on 30.08.1963. Thus, the date of birth of these children of Dashrath would also have to be reconciled

with the probable date of birth of Dashrath.

8. We find that though this material in the form of old records has been relied upon by the petitioner to substantiate his claim and has been referred to by the Vigilance Cell and thereafter by the Scrutiny Committee to disallow his claim, the relevant aspect as to age of Dashrath when compared to the documents pertaining to his elder brother - Vithoba shown to be born in 1938 has not been taken into consideration. We find that it would be necessary for the petitioner to firstly explain the probable date of birth of his father on the basis of documents sought to be relied upon by him which explanation would be required to be thereafter considered by the Scrutiny Committee. These aspects go to the root of the matter. Even assuming that the petitioner can be permitted to rely upon the documents for the period from 11.04.1916 to 30.04.1918, its relevance with the date of birth of the elder brother of Dashrath namely Vithoba is also material. At this stage, therefore, it is not necessary to conclusively record any finding with regard to the relevance and/or authenticity of the said document on the premise that there has been some overwriting of Entry No.4369 in the School Register. That aspect can be considered alongwith all other relevant documents.

9. In these facts, therefore, we find that since determination of the social status of the petitioner would have various consequences, an

opportunity ought to be given to the petitioner to explain these material aspects which explanation can thereafter be considered by the Scrutiny Committee. On this count, we are inclined to remand the proceedings to the Scrutiny Committee to consider the claim afresh in the light of the documents on record.

10. Accordingly, the following order is passed:

(i) The order dated 03.06.2020 passed by the Scrutiny Committee is quashed and set aside.

(ii) The proceedings are remanded to the Scrutiny Committee for fresh consideration after granting an opportunity to the petitioner to explain the aspects referred to hereinabove including liberty to file additional reply, if found necessary.

(iii) The Scrutiny Committee shall re-consider the claim in accordance with law. It is at liberty to conduct such enquiry as is permissible in law under the provisions of the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and other Backward Classes) Act, 2001.

(iv) To enable consideration of the petitioner's claim, he shall appear before the Scrutiny Committee on 13.10.2023. The adjudication be completed within a period of four months from that date. It is clarified that

all questions/issues are kept open for being considered by the Scrutiny Committee in accordance with law.

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

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..