

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

WRIT PETITION NO.2958 OF 2021

Sunil S/o Gunwantrao Hedao,
Aged about 45 years, Occupation-Service,
R/o Anwarpura, Tq. Achalpur,
Dist. Amravati

... Petitioner

-vs-

1. The Schedule Tribe Caste
Certificate Scrutiny Committee,
through its Member Secretary
and Deputy Director, Sanna Building,
Opp. Govt. Rest House,
Camp Amravati 444 601

2. The Zilla Parishad,
Through its Chief Executive Officer,
Amravati

3. The Education Officer,
Zilla Parishad (Primary),
Amravati

... Respondent

Shri Ashwin Deshpande, Advocate for petitioner.

Shri A. S. Fulzele, Additional Government Pleader for respondent No.1.

Shri S. M. Bhangde, Advocate for respondent Nos.2 and 3.

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

DATE : July 31, 2023

Oral Judgment : (Per : A. S. Chandurkar, J.)

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

The challenge raised in the present writ petition is to the order passed by the Scrutiny Committee on 27/07/2021 thereby invalidating the petitioner's claim as belonging to 'Halbi' Scheduled Tribe.

2. The petitioner in support of his claim of belonging to 'Halbi' Scheduled Tribe heavily relied upon documents dated 07/01/1938 and 04/04/1944 of his forefathers which had the entry 'Halbi'. The Vigilance Cell in its report has found these documents with the aforesaid entry. However, the Vigilance Cell further found three documents of 1946 and two documents of 1948 with the entry 'Koshti'. The documents of 1946 are of Sudam Dattuji, Kashinath Nagoji and Sadashiv Tilluji while documents of 1948 are of Ramchandra Nagoji and Sadashiv Vishnuji. In the reply filed by the petitioner to the report of the Vigilance Cell a specific stand was taken that the said five persons with regard to whom documents of 1946 and 1948 respectively were referred were not related to the petitioner. Such stand was taken in detail by giving reasons as to why the said five documents should not be relied upon. However while passing the impugned order the Scrutiny Committee has not dealt with the petitioner's objection in that regard. On the contrary, in view of the documents of 1946 and 1948, it proceeded to invalidate the petitioner's claim.

3. After hearing the learned counsel for the parties and after perusing the record maintained by the Scrutiny Committee, it is clear

that the specific stand taken by the petitioner that the persons named in the documents of 1946 and 1948 respectively were not related to the petitioner has not been dealt with by the Scrutiny Committee. It was necessary for the Scrutiny Committee to have adjudicated upon those documents since the Vigilance Cell has found that the documents of 1938 and 1944 have the entry 'Halbi'. If the documents of 1946 and 1948 are excluded from consideration, the petitioner's claim could be substantiated by the documents of 1938 and 1944. Since there is failure on the part of the Scrutiny Committee in specifically dealing with the clear stand taken by the petitioner, there is no option but to set aside the impugned order for failure to consider the petitioner's reply. The proceedings are required to be adjudicated afresh by directing Scrutiny Committee to give a finding on the stand taken by the petitioner with regard to the documents of 1946 and 1948.

4. Hence for aforesaid reasons, following order is passed :

- (i) The order dated 27/07/2021 passed by the Scrutiny Committee is set aside. The proceedings are remanded to the Committee for fresh consideration.
- (ii) The petitioner shall appear before the Scrutiny Committee on 07/08/2023 to facilitate such re-consideration.
- (iii) Since the entire exercise of undertaking vigilance enquiry has

been completed, it is expected that the claim would be decided by taking into consideration a specific stand taken by the petitioner to discard the documents of 1946 and 1948. Petitioner's reply as a whole shall be taken into consideration. The Scrutiny Committee is free to make necessary enquiry in that regard to gather the relationship of the petitioner with the said two persons.

- (iv) Since a limited exercise is required to be undertaken, the process of validation be completed within a period of three months from the date of the petitioner's appearance.
- (v) Since the process of verification is complete, the services of the petitioner shall not be disturbed for want of validity certificate.

5. With these directions the writ petition is allowed and disposed of. Rule accordingly. No costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)