

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

WRIT PETITION NO. 3798 OF 2023

Shri Vaibhav s/o Dinesh Charpate,
aged about 18 years, Occ. Student,
R/o Samarth Colony Vidarbha Mill,
Achalpur, Tah. Achalpur, District – Amravati.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through its Secretary, Department of Social Welfare,
Mantralaya, Mumbai – 32.
2. The District Caste Certificate Scrutiny Committee,
Amravati.

RESPONDENTS

Shri D.R. Rupnarayan, Advocate for the petitioner.
Ms S.S. Jachak, Assistant Government Pleader for the respondents.

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

DATE : JULY 21, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

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

2] The challenge raised in the present Writ Petition is to the order passed by the Scrutiny Committee dated 30/12/2022 by which the petitioner's claim of belonging to 'Gawali' – Nomadic Tribe – B has been invalidated.

3] The petitioner in support of the aforesaid claim has sought

to rely upon the birth extract dated 27/11/1952 of his great grandfather – Ramchandra to whom a daughter was born as per records of the Municipal Council – Achalpur. In addition, the petitioner seeks to rely upon the validity certificate issued to his brother – Aman. The Scrutiny Committee in the impugned order has observed that though the old documents have reference to the word ‘Gawali’, in the subsequent certificates there is reference to the word ‘Ahir’. The document of the year 1952 has not been accepted on the ground that the relationship with the petitioner is not established. Similarly, the caste validity certificate issued to the petitioner’s brother was without conducting vigilance enquiry.

4] We have heard the learned Counsel for the parties and we have perused the record of the Scrutiny Committee. Insofar as the document dated 27/11/1952 is concerned, the same indicates that a daughter was born to Ramchandra, son of Tarachand and the entry ‘Gawali’ is found therein. The area of residence is shown as Bundelpura, Achalpur. In the family tree placed on record of the Scrutiny Committee, since there is no daughter shown to be born to Ramchandra, that entry has been discarded. In this regard, it is to be noted that as per the said family tree, Ramchandra had a brother – Natthulal. Natthulal’s son was Mitthulal. Mitthulal is the grandfather of the petitioner. Once this relationship is not in dispute, the only reason that reference to daughter born to Ramchandra is not stated in the family tree would not be of much

consequence.

5] There is yet another document which relates to Mitthulal which indicates that he took education from 24/6/1944 to 19/7/1946 at the Municipal School – Achalpur and the said document also has an entry ‘Gawali’. Copy of this School Leaving Certificate has been obtained from the Municipal Council and this document of pre-independence era has great probative value. The same has not been given due consideration by the Scrutiny Committee. In addition, there is a validity certificate issued to the petitioner’s brother – Aman. According to the Scrutiny Committee, since there was no enquiry by the Vigilance Cell while issuing such validity certificate, the same was not entitled for any weightage. We find that when the old documents of the years 1944 and 1952 are considered which have the entry ‘Gawali’, there is no reason to discard the validity certificate issued to the petitioner’s brother.

6] The Vigilance Cell has noted that the members of the family were engaged in the business of sale of milk. They were however Hindi speaking. The said fact would not make much difference since the oldest document of the petitioner’s grandfather shows residence in the State of Maharashtra. On perusal of the entire documents on record, it can be seen that the documents of the years 1944 and 1952 are required to be given due weightage and if these documents are considered along with the aspect of affinity which is indicated in the report of the Vigilance Cell,

it would be clear that the petitioner has made out a case for seeking benefit that has been granted to his brother. The Scrutiny Committee misdirected itself when it did not give due importance to the documents of the years 1944 and 1952.

7] For the aforesaid reasons, the order dated 30/12/2022 is set aside. It is declared that the petitioner has proved his claim of belonging to 'Gawali' - Nomadic Tribe – B. The Scrutiny Committee shall within a period of four weeks issue validity certificate to the petitioner. Till the validity certificate is issued, the petitioner can rely upon copy of this judgment to indicate that his claim of belonging to 'Gawali' - Nomadic Tribe has been accepted.

8] Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

Sumit