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

Writ Petition No.4895/2022

Ku. Ekta d/o Ganpatrao Ghodmare,
Aged about 19 years, Occ.-Student,
R/o.Khapekar Layout, Sevagram, Distt. Wardha.

.... Petitioner.

Versus

1. the Vice-Chairman/Member,
Secretary Scheduled Tribe Caste
Certificate Scrutiny Committee, Nagpur.

2. The Registrar,
Maharashtra National Law University, Nagpur.

.... Respondents.

Mrs. Priti Rane, Adv for petitioner.

Mr. Nitin Rao, AGP for resp. no.1.

Mr. Khubalkar, Adv resp. no.2.

CORAM : AVINASH G GHAROTE &
URMILA JOSHI-PHALKE, JJ.

DATE : 25-09-2023

Oral Judgment (per Avinash G Gharote, J.)

Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith.

3. The petition challenges the decision of the Caste Scrutiny Committee dated 21-06-22 (Pg 86), whereby the claim of the petitioner belonging to the 'Mana Scheduled Tribe' has been negated.

4. Mrs. Rane, learned counsel for the petitioner submits, that the genealogical tree given at pages 28 and 44 is not disputed by the respondents and since two of the persons from the said genealogical tree namely Geeta

Kisan Ghodmare (pg 22) and Reeta Shalik Ghodmare (pg 34) have been granted validity by the Caste Scrutiny Committee on 14-03-2006 and 03-11-2018 respectively, the refusal of the Caste Scrutiny Committee to grant validity to the petitioner is not justified. It is also contended that while granting validity to Geeta Kisan Ghodmare, who is the cousin sister of the petitioner, the very document in the name of Sonu, the great grandfather of the petitioner, was considered is not disputed, considering which, since the claim of the present petitioner is also based upon the same document (pg 21), it is contended that the decision of the Caste Scrutiny Committee cannot be sustained. It is also contended that another cousin sister of the petitioner namely Reeta Shalik Ghodmare has also been granted a validity certificate, based upon the same document, considering which, also the impugned decision cannot be sustained.

5. Mr. Rao, learned AGP, vehemently opposing the contention and supporting the decision of the Caste Scrutiny Committee submits that there is no linkage between Sonu whose name finds place in the Birth Entry dated 29-09-1922 (pg 21) to demonstrate that he is the same person as Sonba who has been shown as the great grandfather of the petitioner in the genealogical tree and therefore the petitioner cannot take any assistance of the entry of the year 1922. He further submits, that the Caste Scrutiny Committee has directed reopening of the validity issued in the names of Geeta and Reeta on account of which the present matter can be remanded back to the Caste Scrutiny Committee for decision of all the three matters simultaneously within a stipulated period of time. He, therefore, supports the decision of the Caste Scrutiny Committee.

6. Mr. Khubalkar, learned Counsel for respondent no.2, states that the petitioner was provisionally admitted considering her belonging to the

Scheduled Tribe Mana with the respondent no.2, however consequent to the decision of the Caste Scrutiny Committee her admission has been cancelled. The decision of this Court, will govern the subsequent events to take place.

7. The original record of the Committee has been made available to us and with the assistance of the learned Counsels, we have perused the same.

8. It is not in dispute that Geeta Kisan Ghodmare has been granted validity as belonging to the Mana (ST) on 14-03-2006 (pg 22), on the basis of the entry in the name of Sonu (pg 21) the great grandfather of Geeta. This was after the vigilance report dated 16-02-2005 (pg 24 to 29), which indicates that Sonu Mana whose date of birth certificate dated 29-09-1922 shows him to be belonging to Mana (ST) was indisputably accepted to be the great grandfather of Geeta Kisan Ghodmare (pg 26) and the date of birth certificate as indicated above (pg 21) was considered by the Vigilance Committee while submitting its report. Insofar as Reeta Shalik Ghodmare is concerned, the claim made by her, since it is based upon the validity granted to Geeta Kisan Ghodmare, there is no vigilance report.

9. The contention of Mr. Rao, learned AGP that there is no co-relation between Sonu Mana whose date of birth entry is at page 21 and Sonba Ghodmare who is claimed to be the great grandfather of the petitioner is clearly belied from the admission that there is no dispute in relation to the genealogical tree as indicated in the Vigilance Cell Report in respect of Geeta Kisan Ghodmare at (page 28) and the genealogical tree submitted by the petitioner (pg 44), which would indicate that Geeta and the present petitioner are the first cousins. If that is the position, then Sonba Ghodmare and Sonu, necessarily have to be inferred to be the same persons as no other conclusion can be drawn in view of the admission that Geeta Kisan Ghodmare and

petitioner are first cousins. That apart the Vigilance Cell Report in respect of the present petitioner (pg 37 and onwards) itself indicates that Sonu and Sonba Ghodmare are one and the same person which is apparent from the report submitted by Shri P.R. Lande, Police Inspector (Vigilance Cell of the Committee) dated 24-01-22 (pg 40). This is also demonstrated from the report of the Research Officer dated 25-01-22 (page 41) in which para 3 of the said report specifically refers to Sonu alias Sonba Ghodmare which would indicate that even the Research Officer has accepted that they are the same person. It is, therefore, apparent that even the Vigilance Cell Report in respect of the petitioner herself establishes the fact that Sonba Ghodmare and Sonu are one and the same person. This being the position as spelt out from the report of the vigilance cell itself, the contention that Sonu Mana (pg 21) and Sonba Ghodmare are two different persons, will have to be rejected.

10. The entry in respect of Sonu Mana shows that he belongs to the Mana (ST). This entry in the date of birth register dated 29-09-1922 (pg 21) is not disputed. What was disputed was the relationship, which contention has been rejected as indicated above. Since *inter-se* relationship between Geeta and the petitioner is also not disputed, we do not see any reason why the petitioner should also not be recognized as she belongs to the Mana (ST).

11. That apart the decision of the Scrutiny Committee, itself records that the uncle of the petitioner namely Kisan s/o Shivram Ghodmare is recorded as 'Mana' in the school record of 1958. The cousin uncle Mansaram Kashiram Ghodmare, is also recorded as 'Mana', in the school records in the year 1966. So is the case with the another uncle Shalikram and father Ganpat of the petitioner, though these entries are of the years 1970 and 1976 respectively. Thus apart from the entry in respect of 'Sonu alias Sonba Ghodmare' the great grandfather of the petitioner, there are also other entries

as indicated above which record the blood relatives of the petitioner on the paternal side as 'Mana', as is reflected from the table in para 4 (pg 121) of the impugned decision of the Scrutiny Committee, which have been ignored by the Committee, which has chosen to rely upon three stray entries in the name of cousin uncles of the petitioner (entries 3 to 5 in table para 4/page 121), instead of considering the overwhelming evidence as depicted by the entries at serial no.1, 7 to 10, (table in para 4/page 121) some of which are of the period contemporaneous with the entries at serial nos. 3 to 5 therein, for which there is no reason whatsoever. It appears that the Scrutiny Committee, has developed a jaundiced negative approach in considering the entries by ignoring the mandate of the Rule 16 (h) Explanation-3 of the Caste Verification Rules, 2003, which is not correct in law.

12. In a catena of decisions, it has been consistently held that if there is no dispute in genealogical tree and in the identity and the relationship of the petitioner with the person who has been granted validity have been established, the Caste Scrutiny Committee is not entitled to look any further as is the mandate of Rule 16 (h) Explanation-3 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificates Rules, 2003, as its stands amended in 2012. This has also been spelt out by the Hon'ble Apex Court in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs State of Maharashtra and others (2023 SCC Online 326). It appears that the Caste Scrutiny Committee has totally lost sight of the provisions of Rule 16(h) and Explanation-3 of the Rules, 2003.

13. In view of the above discussion, we do not see any reason for remand of the matter to be decided with that of Geeta and Reeta Ghodmare's, as in our considered opinion, since the relationship in the genealogical tree is not disputed and the vigilance report itself identifies Sonu and Sonba to be the

one and the same person, any such exercise is totally uncalled for and would not be justified.

14. We also refrain from commenting upon the conduct of the Scrutiny Committee in reopening the caste validity granted to Geeta and Reeta, but express our anguish at the blatant ignorance of the mandate of the Rules which govern the issue and their ignorance by the Committee, while deciding matters. In fact we have come across decision's of the Scrutiny Committee in which in spite of the validity being confirmed by this Court, the Committee has in spite of referring the same, has had the audacity to reopen the validity granted to a direct relation, which action borders on contempt. Though we have restrained ourselves from taking *suo moto* action, however, that may no longer remain so, if such blatant ignorance and sidelining of the judgment of this Court is noticed again. This is only a word of caution and we hope wiser sense would prevail upon the Committee.

15. In view of the above discussion, we do not see any reason to sustain the impugned decision of the Caste Scrutiny Committee, the same is accordingly hereby quashed and set aside. The Committee is directed to issue scheduled tribe certificate to the petitioner of belonging to the 'Mana' Scheduled Tribe as per entry 18 in the Scheduled Tribe Presidential Order, 1950. As a consequence of the same, the respondent no.3 is directed to restore the admission granted to the petitioner.

16. Rule is made absolute in above terms. No costs.

JUDGE

JUDGE