



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

WRIT PETITION NO.4223/2021

Purushottam S/o Pandurang Sonkusare,
aged about 56 Yrs., Occ. Service as a
Peon (Class IV employee) i.e. Kendra
Sevak, R/o Savaipura, Achalpur,
Dist. Amravati.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary, Ministry
of Tribal Welfare and Social
Justice Department, Mantralaya,
Mumbai 400 032.
2. Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati
Division, Amravati, through its
Secretary.
3. Welfare Commissioner (under
Maharashtra Labour Welfare Board),
Hutatma Babu Ganu Mumbai Girni
Kamgar Krida Bhavan, Senapati Bapat
Marg, Elphinstan, Mumbai 400 013.
- 4 Assistant Welfare Commissioner,
Divisional Office, Lalit Kala Bhawan,
Dabki Road, Bhim Nagar, Akola.

... Respondents

Mr. Narayan Phadnis, counsel for the petitioner.
Ms. N.P. Mehta, A.G.P. for respondent Nos.1 and 2.
Ms. K.K. Pathak, counsel for respondent Nos.3 and 4.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 12.9.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner has challenged the order passed by the Caste Scrutiny Committee dated 9.9.2021 invaliding the tribe claim of the petitioner.

3. The petitioner claims that he belongs to Halbi Scheduled Tribe. He was initially appointed by respondent No.3 as Peon / Kendra Sevak. For submitting the tribe validity he has submitted genealogy and the documents as follows:-

“i. School Transfer Certificate of petitioner Purushottam issued by the Head Master, Nagar Parishad School, Sarmaspura, Achalpur dated 6.3.1987.

ii. Akhiv Patrika in respect of petitioner's father by name Pandurang i.e. revenue entry dated 25.6.1946.

iii. Akhiv Patrika new form computerized dated 25.6.1946.

iv. Birth entry of Neera of 1947.

v. Dakhal Kharij Register entry of Neera dated 27.6.2013.

vi. Dakhal Kharij Register entry of Shakuntala dated 18.9.1998.

vii. Birth entry of petitioner's father Purushottam dated 3.6.1966.

viii. Dakhal Kharij Register entry of Gajanan dated 18.8.1998 and

ix. Dakhal Kharij Register entry of petitioner's father dated 7.1.1999."

4. During the pendency of verification process before the Committee on 4.9.2020 the petitioner submitted an application along with five relevant entries of Halbi which was received by the Committee on 4.9.2020. The Committee obtained Police Vigilance Cell Report and forwarded it to the petitioner along with a show cause notice thereby obtained two entries of Koshti and Rangari in respect of Ganpat Govinda, alleged uncle of petitioner and Govinda, grandfather, wherein Rangari is mentioned in birth / death entry of year 1919. Said

two entries were denied by the petitioner on the ground that those are not related with petitioner in any manner as they are residing at different areas and has also demonstrated by way of age difference between father and the grandfather. Without considering this reply and without considering the additional documents placed before the Committee, the Committee has passed the impugned order and invalidated the tribe claim of the petitioner, therefore, he has filed this petition.

5. We have heard both the parties and gone through record produced before us.

6. The main reason for the rejection of tribe claim of the petitioner is that there are two entries found during the Police Vigilance Cell Report of one Govinda and Ganpat as Rangari. The petitioner has given reply to these entries stating that both persons are not in his relation. The age difference between the father and grandfather whom the Vigilance Committee has stated as grandfather is 7 years. Though the specific reply is given by the

petitioner, said reply is not considered by the Scrutiny Committee. The petitioner has also filed additional documents on 4.9.2020 which were received by the Caste Scrutiny Committee but on perusal of the impugned order it appears that said documents were not considered by the Scrutiny Committee and invalidated the claim of the petitioner. Therefore, it is necessary to remand the matter to the Caste Scrutiny Committee to consider afresh the claim of the petitioner considering the reply of the petitioner and the additional documents filed on 4.9.2020 by the petitioner.

7. For the aforesaid reasons, the order passed by the Scrutiny Committee on 9.9.2021 invalidating the petitioner's tribe claim of belonging to Halbi Scheduled Tribe is set aside for the reason that the petitioner's explanation to the Report of the Vigilance Cell that was submitted on 29.1.2018 has not been considered. Similarly the documents submitted to the Scrutiny Committee on 4.9.2020 have also not been considered.

8. The Scrutiny Committee shall reconsider the petitioner's claim in accordance with law. To enable such

consideration, the petitioner shall appear before the Scrutiny Committee on 3.10.2023. Within a period of six months from that date, the claim shall be decided.

9. The monetary benefits of the petitioner have not been released by the respondent Nos.3 and 4 in view of pendency of verification of the petitioner's claim. The release of the same would be dependent upon the outcome of the aforesaid decision.

10. Rule is made absolute in the aforesaid terms. No costs.

11. Civil Application (CAW) No.687/2023 is also disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)