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

Writ Petition No.5185/2022

Shivani d/o Sakharam Dhakate
aged about 18 years , Occ-Student,
R/o Adarsh Colony, Tahsil Road, Nagbhid,
Tah. Nagbhid, District Chandrapur

.... Petitioner

Versus

Scheduled Tribe Caste Certificate
Scrutiny Committee, Chandrapur
Distt. Chandrapur, through its
Deputy Director and Member Secretary.

... Respondent

Mr. R.S. Parsodkar with M.D. Lakhey, Advs for petitioner.

Mr. S.M. Ukey, Addl.GP for respondent.

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

DATE : 01-09-2023

Oral Judgment (Per Avinash G. Gharote, J.)

Rule. Rule made returnable forthwith. The matter is taken up and heard finally with the consent of learned Counsel for the parties.

2. As we have been informed that the petitioner has been selected in CAP round for MBBS admission in Government Medical College Nagpur and has to submit her validity on 03-09-2023.

3. The petition challenges the decision of the scrutiny committee dated 02-08-22 (pg 75) by which the caste claim of the petitioner of being to the Halba scheduled Tribe has been turned down (pg 103).

4. Mr Parsodkar, learned Counsel for the petitioner submits that the genealogical tree at page 56 indicates an undisputed relationship. It is also

an admitted position that none of the persons from the genealogical tree has ever applied for and granted validity, except for the father of the petitioner who has now applied and whose claim is pending.

5. It is further contended that the school leaving certificate of the father of the petitioner namely Sakaharam (Pg 42) indicates the caste as Halba and is of year 1979. The father of Sakharam is Budha. The birth entry of Budha (pg 45) as recorded on 28-08-1936 under the provisions of the Registration of Birth Certificate Act 1969, records the name of the father of Budha as Laxman Sakharam Halba. The date of birth being 01-08-1936.

6. The birth entry of Budha's brother namely Urkuda as registered on 30-04-1930 as 29-04-1930 also records the name of the father Laxman Sakharam Halba (pg 46). The school leaving certificates of Laxman, the father of Budha and Urkuda (pg 47), indicates the caste is Halba, and the duration for which Budha has studied in the Zilla Parishad Primary Basic School Nagbhid as 12-04-1904 to 02-12-1904. It is therefore contended that the rejection of the claim by the scrutiny committee based upon the vigilance report was clearly not justified. It is further submitted that the finding by the scrutiny committee that the entries were not genuine and the documents were tampered is also not justified and the petitioner is entitled for a validity.

7. Mr. Ukey, learned Additional Government Pleader for the Scrutiny Committee, places heavy reliance upon the School Entry register of Zilla Parishad Basic School Nagbhid and specifically in respect of the entry of Laxman, the great grandfather of the petitioner for the relevant duration, which entry is dated 12-04-1904. He has produced the original register for our perusal and submits, that it would demonstrate that the entire page therein has been tampered with inasmuch as according to him the entire page

has been replaced by pasting a new page in between two pages. It is also contended that the names as well as the entry in 5th column are in different ink which also does not lend any credibility to the entry. He also submits that the 3rd column which depicts the age is also missing, apart from which there are two entries at serial no.1458. It is therefore contended that the entry in the school register has been tampered. He also relies upon the original affidavit register of the same school, in which regarding the entry of Budha son of Laxman, the entry in respect of the caste column is torn, which entry is of 01-07-1929 and the name is written as Laxman Sakharam Koshti. He also relies upon the Tax Assessment Register of 1949-50 of Nagbhid Municipal Council specifically entry at Sr. No.112 in the name of Laxman Sakaharam which records the name as Laxman Sakaharma Halba and contends that the word 'Halba' has been subsequently inserted as according to him it is in a different handwriting.

8. With the assistance of the learned counsels we have perused original school admission register of Zilla Parishad Primary Basic School of Nagbhid, we find entry of 1458 which records the name of Laxman s/o Sakharam Halba and the profession as Cloth weaving, Koshti. The date of the entry is 12-04-1904. Though the relevant page of this entry indicates the name in column (2) and the details of the parent in column (5) are somewhat smudged and appear to be in magenta colour, the other entries being in black colour and the age column is missing, however, the entire register is in tatters which is because the register is more than 115 years old. The entries are not in sequence. There are multiple entries which are not legible. Some portions of the register are burnt; the register is written in different handwriting in different colour of ink; there are entries missing. It is therefore apparent that because of the passage of time and the condition of the register, the discrepancies as indicted above may have cropped up. The allegation of

tampering which is sought to be made by learned AGP based upon the contention that the page in which the entry appears have been inserted, do not seem to be justified for the reason that the binding of the register is of a such a nature that several pages are folded and are stitched at two points in the middle. Several such stiched bunches are then bound to form a register which kind of stiching is known as saddle binding. In the said register the page which is claimed to have been tampered has a continuity on the other side which indicates continuity of the page, in view of which, we are unable to accept the contention that the page having the entry of Laxman Sakharam has been inserted in the school admission register of Municipal Council Nagbhid.

9. The contention that there are two entries at Sr. No.1458 also needs to be considered in light of the fact that the perusal of entire register indicates that the entries are not in a sequence; there are numbers missing; there are duplication of numbers in light of which that cannot be ground for discarding the veracity of the entry. The affidavit register by the same school at entry no. 3374 indicates that the portion where the caste is written has been torn. However, the condition of the register also indicates that it is not maintained and is a document which is more than 100 years old. Though it is contended by Mr Ukey, learned AGP that the portion where caste is written has been tampered with, as there is no other similar tearing in any other entry in the said register and would indicate the same has been done deliberately and intentionally that does not appear to us to be so, for the reason that had there been any intention of tampering, the fact that none of the persons in the genealogical tree prior to the petitioner have ever applied for and sought caste certificate or validity, except for the father who has now made an application, would have been there. So also the contention that the Tax Assessment register of the Municipal Council Nagbhid for the year 1949-50 also has been tampered by inserting Halba against the name of Laxman

Sakaharam at Sr. No.112 does not appear to be justified as the perusal of the register would indicate that the register has been written by different persons at different point of time and the entry no. 112 is continuous.

10. Even if we ignore all the entries in the school admission register of Zilla Parishad Primary Basic School Nagbhid; the entries in the affidavit register of the school; the entries in the assessment register, still we find that the claim of the petitioner of belonging to Halba tribe would be justified on the ground that the date of birth certificate in respect of Budha, the grandfather of the petitioner (pg 45) which entry has been taken on 28-08-1936 records that he is a Halba. This is also the position in respect of Urkuda his brother whose entry has been taken on 30-04-1930 (pg 46). The entry in the school leaving certificate of Laxman the great great grandfather of the petitioner is still older and is of 12-04-1904 (pg 47). The entries regarding the birth certificate of Budha and Urkuda and that in respect of Laxman the great grandfather of the petitioner are independent per-constitutional entries and therefore in light what has been said in *Anand vs Committee for Scrutiny and Verification of Tribe Claims and others*, (2012) 1 SCC 113; *Maharashtra Adivasi Takur Jamat Vs State of Maharashtra*, 2023 (2) Mh.L.J. 785 and also also in *Priya s/o Pravin Parate Vs Scheduled Tribes Caste Certificate Scurrility Committee, Nagpur* 2023 (1) Mh.L.J. 180, that the entries in per-constitutional documents have great probative value, we find that the findings of the scrutiny committee cannot be sustained.

11. The impugned decision of the scrutiny committee is therefore hereby quashed and set aside and the Scrutiny Committee is directed to issue caste validity certificate to the petitioner of she belonging to Scheduled Tribe Halba. Since it is not possible for the Scrutiny Committee to do it by 03-09-2023, we direct this judgment shall be treated as a validity certificate for the

purpose of the admission of the petitioner with the GMC, till such time the Caste Scrutiny Committee issues caste validity certificate in favour of the petitioner which shall be done by 05-09-2023.

12. Learned AGP at this stage requests for stay of judgment for 4 weeks, however considering what has been held above and the admission has to be completed by 03-09-2023, we decline such request.

JUDGE

JUDGE