

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

WRIT PETITION NO.4441 OF 2018

Petitioner : Sachin s/o Ramdhansingh Rajput,
Aged about 43 years, Occ. Service,
R/o Jai Hind Chowk, Old City, Akola,
Tq. and District Akola.

– Versus –

Respondents : 1) The Caste Certificate Verification Scrutiny
Committee, Akola,
Through its Member Secretary,
District Akola.

2) The Zilla Parishad, Akola,
Through its Chief Executive Officer,
District Akola.

3) The Education Officer (Primary),
Zilla Parishad, Akola, Dist. Akola.

Mr. R.D. Karode, Advocate for the Petitioner.
Mr. M.K. Pathan, A.G.P for Respondent No.1.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRAGADE, JJ.**
DATE : **23rd JANUARY, 2023.**

J U D G M E N T : *(Per Y.G. Khobragade, J.)*

Rule. Rule made returnable forthwith. Heard finally by consent of
the learned Counsel for the parties.

02] The challenge raised in this writ petition is to the order dated 11/06/2018 passed by the respondent No.1-Scrutiny Committee, thereby invalidating the tribe claim of the petitioner of belonging to 'Rajput Bhamta', which is recognized as Vimukta Jatis.

03] It is the case of the petitioner that he and his forefathers belong to 'Rajput Bhamta' community, which is recognized as Vimukta Jatis. He completed S.C.C., D.Ed. and vide order dated 22/12/1995, he was appointed being an Assistant Teacher in reserved category with respondent No.2. Since, he was due for promotion, his caste claim was referred to respondent No.1 for scrutiny along with several documents including per-constitutional document i.e. Kotwal Panji, wherein the caste of the grandfather of the petitioner viz. Dhondusingh Ramchandrasingh Rajput was mentioned as "Rajput Bhamta". However, on 11/07/2018, his caste claim was invalidated by respondent No.1-Scrutiny Committee.

04] Having heard both the sides and having considered the documents placed before us, we find that while invalidating the caste claim of the petitioner, respondent No.1-Scrutiny Committee has ignored the per-constitutional document of the year 1949 of grandfather of the petitioner namely Dhondusingh Ramchandrasingh Rajput, wherein the caste of the grandfather of the petitioner is mentioned as "Rajput Bhamta" and the birth

register document of his uncle Shri Babnya, in which also the caste is mentioned as “Rajput Bhamta”.

05] On perusal of the vigilance cell report, it appears that when the caste certificate of Shri Dhondusingh Ramchandrasingh Rajput was scrutinized, some difference in handwriting while writing the caste as “Rajput Bhamta” is found. However, the vigilance cell report does not reveal, who had written said caste in document dated 18/10/1949. In the other documents pertaining to close relatives of the petitioner, the caste is mentioned as “Rajput Bhamta”. The petitioner produced caste validity certificate issued by respondent No.1- Scrutiny Committee in respect of Ku. Kirti Vijaysingh Rajput, who is the cousin sister of the present petitioner and said fact is not disputed by the Scrutiny Committee.

06] The Scrutiny Committee ought to be mindful of the fact that the validity certificate granted to a person is a conclusive proof of his/her social status. The document confirming the social status of a person would also be a proof of social status of his real blood relatives unless it is shown that the person possessing validity has obtained the same by fraud, misrepresentation or suppression of facts, or the Scrutiny Committee, in those cases, did not act in accordance with law.

07] In the case of Apoorva Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in 2010(6)Mh.L.J.401, the Division Bench of this Court has taken a view that when during the course of enquiry a candidate submits a caste validity certificate granted earlier certifying that blood relative of the candidate belongs to the same caste as that claimed by the applicant, the Committee shall grant such certificate without calling for vigilance cell report. It is further held that if the Committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to grant certificate to the applicant before it.

08] The coordinate Bench of this Court has also taken a similar view in Writ Petition No.3837/2013 (Aishwarya d/o Madhukar Sonwane vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli and others) and Writ Petition No.491/2019 (Ku. Nayan d/o Bhaskar Chouke vs. Scheduled Tribes Caste Scrutiny Committee and another).

09] Therefore, we do not find any reason to take a different view in the matter, since the cousin uncle of the petitioner holds a validity certificate. It is nobody's case that the said certificate has been obtained by fraud or misrepresentation. In the circumstances, the Scrutiny Committee ought to

have granted validity certificate in favour of the petitioner, as the vigilance cell enquiry or affinity test would not be decisive in the facts of the present case. Hence, we hold that the Scrutiny Committee has fallen in a serious error in refusing to issue validity certificate in favour of the petitioner. In the result, the following order is passed:

ORDER

- I. The writ petition is allowed.
- II. The impugned order dated 11/06/2018 is hereby quashed and set aside.
- III. We direct the Respondent No.1-Scrutiny Committee to issue caste validity certificate in favour of the petitioner as he belonging to 'Rajput Bhamta' V.J. within a period of four weeks from the date of receipt of copy of this order. It is declared that the petitioner belongs to 'Rajput Bhamta' Vimukta Jatis.
- IV. Rule is made absolute in the aforesaid terms with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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