



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

CIVIL APPLICATION (W) NO. 2846/2023 IN WRIT PETITION NO. 5872/2023

(ATHARV DEORAO KATOLE **VERSUS** THE COMMITTEE FOR SCRUTINY OF SCHEDULED TRIBE
CERTIFICATES, YAVATMAL)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri K.S. Narwade, counsel for the petitioner.

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

DATE : SEPTEMBER 18, 2023.

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Since the petitioner seeks to rely upon the additional material as well as the events that have occurred after filing of the writ petition, the amendment is allowed. The same be carried out accordingly.

2. The civil application is disposed of.

WRIT PETITION NO. 5872/2023.

RULE. Rule made returnable forthwith.

2. Learned Assistant Government Pleader Shri A.A. Madiwale waives notice of hearing for the respondent nos.1 and 3.

3. Learned counsel Shri N.A. Gaikwad waives notice of hearing for the respondent no.2.

4. Since the petitioner seeks to pursue higher education and it is informed that the petitioner is required to submit the validity certificate if granted by 20.09.2023, we have taken up the writ petition for final disposal.

5. The petitioner challenges the order passed by the Scrutiny Committee dated 22.08.2023 by which it has been held that the petitioner has failed to prove that he belongs to 'Halbi' Scheduled Tribe.

6. On hearing the learned counsel for the parties and after perusing the documents on record it is seen that the petitioner's real brother Shreyas has been issued the validity certificate on 30.06.2023 pursuant to the judgment in **Writ Petition No. 3150 of 2022** [*Shreyas Deorao Katole Versus The Committee for Verification of Tribe Certificates, Yavatmal*] dated 12.04.2023. After considering various documents including the document dated 18.08.1925 this Court has held that the petitioner's brother has proved that he belongs to 'Halbi' Scheduled Tribe. Though this judgment and the validity certificate of the petitioner's brother were placed before the Scrutiny Committee, it has proceeded to again assess the document dated 18.08.1925 and has sought to record a different finding. We find that since this Court had considered all old documents including the documents dated 18.08.1925, 30.06.1926 and 12.02.1931 and thereafter upheld the claim of the petitioner's brother of belonging to 'Halbi' Scheduled Tribe, it was not permissible for the Scrutiny Committee to take a different view. It would be incomprehensible that the petitioner's brother is declared to belong to 'Halbi' Scheduled Tribe and the petitioner's claim is disallowed on the very same documents.

7. According to the learned Assistant Government Pleader the judgment of this Court in the case of *Shreyas Deorao Katole* (supra) is sought to be challenged before the Hon'ble Supreme Court. However till date such proceedings have not been filed as averred by the petitioner in paragraph 10(b) of the writ petition.

8. In case the judgment of this Court in the case of the petitioner's brother is set aside the consequences would follow and the same would also bind the present petitioner.

9. Hence, by following the ratio in the case of *Apoorva Vinay Nichale Versus Divisional Caste Certificate Scrutiny Committee No.1. & Others* [2010 (6) Mh.L.J. 401] and by adopting the reasons assigned in *Shreyas Deorao Katole* (supra), the following order is passed :-

- (I) The order passed by the Scrutiny Committee on 22.08.2023 is set aside.
 - (II) It is held that the petitioner has proved that he belongs to 'Halbi' Scheduled Tribe. Within a period of three weeks from today, the Scrutiny Committee shall issue a validity certificate to the petitioner.
 - (III) Till such time the validity certificate is issued to the petitioner, he is free to rely upon the copy of this judgment to claim that he has proved that he belongs to 'Halbi' Scheduled Tribe.
 - (IV) The learned counsel for the respondent no.2 to communicate this order to the respondent no.2.
10. The writ petition is allowed. Rule is made absolute in aforesaid terms. No costs.
11. Authenticated copy of this order be supplied to the learned counsel for the parties.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)