

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

Writ Petition No.7464/2022

Onkar Laxman Wankhade,
Aged about 38 years, occ.-Service,
R/o.- At Nimba, post Deurwada,
Tah Digras, Distt Yavatmal.

... Petitioner

VERSUS

- 1) State of Maharashtra,
through its Secretary, Tribal Development Department,
Mantralaya, Mumbai 440032.
- 2) District Cast Verification Committee, Yavatmal,
Distt. Yavatmal through its President.
- 3) Divisional Caste Certificate Verification Committee,
Amravati, Distt. Amravati.
- 4) Tahasildar, Digras, Distt Yavatmal.
- 5) Sub Divisional Officer, Pusad, Distt. Yavatmal.
- 6) Superintendent of Police Vigilance Squad
District Cast Verification Committee Yavatmal,
Distt. Yavatmal.
- 7) Collector, Yavatmal, Distt Yavatmal.

...Respondents

Mr. Raju Kadu, Advocate for the petitioner.
Mr. M.K. Pathan, AGP for respondents

CORAM : Rohit B Deo & M.W. Chandwani, JJ.
DATE : 17-07-2023.

JUDGMENT (Per M.W. Chandwani, J.)

This petition challenges the order dated 16-11-2022 passed by the District Caste Verification Committee, Yavatmal (hereinafter referred to as the "Committee", for short) whereby, the caste claim of the petitioner was invalidated. The petitioner claims that he belongs to caste 'Kunbi' which comes under the Other Backward Classes. The petitioner was appointed as a 'Kotwal' from 'OBC' category vide appointment order dated 09-03-2015. Accordingly, he joined the services.

2. The petitioner submitted the caste certificate alongwith necessary documents to the Committee through respondent 4 for verification of his caste claim.

3. The Caste Scrutiny Committee vide order dated 06-08-2020, invalidated the caste claim of the petitioner. The petitioner filed Writ Petition No.4507/2021, against the said invalidation. Vide order dated 10-08-2022, this Court directed the erstwhile Committee to decide the caste validity afresh from the stage of giving opportunity to the petitioner to submit documents and to respond to the Vigilance Cell Report. Pursuant to the said direction, the Committee issued notice to the petitioner and asked

to submit his say to the Vigilance Report and file documents, if any. The petitioner submitted the relevant documents. After hearing the petitioner, the Caste Scrutiny Committee, by impugned order dated 16-11-2022, invalidated the caste claim of the petitioner. Feeling aggrieved by the said order, the present petition came to be filed.

4. We have heard learned Counsel for the petitioner as well as learned Counsel appearing for the Committee and the other respondents. We have also gone through the record of the Caste Scrutiny Committee with regard to the case of the petitioner.

5. Perusal of impugned order shows, that the caste claim of the petitioner is invalidated mainly on the ground that the pre-constitutional documents in the names of Kanuji Kunbi and Kisan Kunbi, show that they belong to villages Mahagaon and Hatola, respectively, whereas the petitioner hails from village Kalgaon. Therefore, the Committee held that the petitioner could not prove his relation with Kanu and Kisan.

6. The petitioner has relied on these two documents as the

documents prior to 13-10-1967. Extract of Birth dated 09-12-1955 shows that birth entry of the daughter of Kisan, has been recorded. In the said document the caste of Kisan is recorded as 'Kunbi'. Likewise another document which is a Kotwal Book Entry dated 05-02-1918, in the name of Kanuji, also shows the caste of said Kanuji as 'Kunbi'. Just because of these documents are not of village of Kalgaon where the petitioner resides, it cannot be said that there is no relation of the petitioner with Kisan and Kanu, particularly; when there is service book of father of the petitioner to show that Kisan is the grandfather of the petitioner. Further the Extract of Birth dated 09-12-1955 also shows the name of grandfather of the petitioner as 'Kishan Kanu', which also establishes the relation of the petitioner with 'Kanu' as great grandfather. these two documents which are discarded by the Committee show that the caste of grandfather and great grandfather as 'Kunbi'. The Committee has not considered these aspects and invalidated the caste claim on the wrong premise that the relationship of the petitioner with Kanuji and Kisan has not been established. The order of the Caste Scrutiny Committee is erroneous and is required to be set aside.

7. Accordingly, the petition is allowed. It is declared that the petitioner belongs to 'Kunbi' caste. The Committee to issue Caste Validity Certificate to the petitioner within six weeks from the date of this order.

8. Petition stands disposed of.

Judge

Judge