



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

**WRIT PETITION NO. 8116/2023**

(BHARAT VISHWANATH PAGADE **VERSUS** THE CHAIRMAN, DISTRICT CASTE CERTIFICATE  
SCRUTINY COMMITTEE, CHANDRAPUR & ANOTHER)

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

*Court's or Judge's order*

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Shri S.R. Narnaware, counsel for the petitioner.  
Shri A.M. Ghogre, Assistant Government Pleader for the respondents.

**CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**

**DATE : DECEMBER 08, 2023**

**P C.**

Impugned in the present writ petition is an order dated November 02, 2023 passed by the respondent no.1-District Caste Certificate Scrutiny Committee, Chandrapur (for short, 'the respondent no.1-Committee'), whereby the caste claim of the petitioner of belonging to 'Nhavi Banjara' came to be invalidated.

2. The facts necessary for deciding the writ petition are as follows :-

It is the case of the petitioner that he belongs to 'Nhavi Banjara' Vimukta Jati. Based on the caste certificate, the petitioner has secured employment in the capacity of Talathi with the respondent no.2-Sub-Divisional Officer, Gondpipri, District Chandrapur. The claim for verification of the caste claim was received by the respondent no.1-Committee from the respondent no.2 on February 13, 2023 and the same came to be invalidated by the impugned order dated November 02, 2023.

3. It is the case of the petitioner that the Sub-Divisional Officer, Chimur, District Chandrapur has issued the caste certificate dated January 31, 2023 of belonging to 'Nhavi Banjara' in his favour. In support of the claim for validity, the petitioner has submitted the following documents :-

- (a) The School Leaving Certificate no.1960, dated May 01, 1985 issued in favour of the petitioner by the Headmaster Lokseva Primary School, Navargaon, Taluka Sindewahi, District Chandrapur certifying that the petitioner belongs to 'Nhavi Banjara';
- (b) the revenue record in relation to Vishwanath, father of the petitioner of 1954-55;
- (c) certificate issued by the Superintending Collector, Chandrapur in favour of petitioner dated November 03, 2022;
- (d) an affidavit dated February 07, 2023 demonstrating the family tree.

Since the respondent no.1-Committee was not satisfied with the supporting documents so as to infer that the petitioner belongs to 'Nhavi Banjara' Vimukta Jati, his claim was referred to the Vigilance Cell for causing an enquiry. After the Vigilance Cell had submitted its report dated June 01, 2023, the respondent no.1-Committee on considering the entire material on record and hearing the parties, passed the impugned order thereby invalidating the caste claim of the petitioner of belonging to 'Nhavi Banjara' Vimukta Jati.

4. Shri S.R. Narnaware, learned counsel for the petitioner would urge that the entire record including that of Vigilance Cell report speaks about the profession of the petitioner's father, petitioner himself and other blood relations being 'Hair Cutting'. He would urge that the father of the petitioner was illiterate and as such his school record was not available which aspect cannot be considered against the interest of the petitioner. The counsel for the petitioner would urge that even if the petitioner had produced on record post-Constitutional documents that by itself cannot be said to be the cause for rejection of the claim for validity. The counsel for the petitioner has drawn support from the Division Bench judgment of this Court in *Mahesh Pralhadrao Lad Versus State of Maharashtra & Others* [2009(2) Mh.L.J. 90]. As such, according to him, the services of the petitioner needs to be protected.

He would further place reliance on the judgment of the Division Bench of this Court in *Sudhir Vasantrao Dhekan Versus Joint Commissioner and Vice-Chairman, Scheduled Tribe Caste Ceremony Scrutiny Committee, Nagpur & Others* [2010(5) Mh.L.J. 353].

5. According to the counsel for the petitioner, the Vigilance Cell has submitted certain information which is sought to be relied by the respondent no.1-Committee for rejecting the petitioner's caste claim. Drawing support from the judgment of the Apex Court in *Anand Versus Committee for Scrutiny and Verification of Tribe Claims & Others* [(2012) 1 SCC 113],

counsel for the petitioner would claim that the respondent no.1-Committee cannot gather evidence on its own to prove or disprove the caste claim of the petitioner. He would further claim that the respondent no.1-Committee ought to have called for the expert's evidence in the matter of examining the school entries of the petitioner which are discarded on the ground of overwriting. According to him, the mode adopted by the respondent no.1-Committee in evaluation of the adverse evidence with regard to interpolation goes contrary to the paragraph 9 of the judgment of the Apex Court in *Sayanna Versus State of Maharashtra & Others* [(2009) 10 SCC 268].

6. As against above, Shri A.M. Ghogre, learned Assistant Government Pleader for the respondents based on the original record would oppose the prayer made in the writ petition. According to him, the respondent no.1-Committee has rightly evaluated the evidence brought before it and has reached to the conclusion of rejection of the caste claim of the petitioner. The Assistant Government Pleader would urge that even if the petitioner had produced post-Constitutional era documents, the oldest one produced by the petitioner was found to be tampered. According to him, the petitioner has failed to discharge the burden as contemplated under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, 'the Act of 2000'). He would further claim

that the report of the vigilance cell and the affinity test are against the petitioner. So as to substantiate his claim, he would support not only the vigilance cell report but also the affinity test. That being so, the Assistant Government Pleader would pray for the dismissal of the writ petition.

7. We have appreciated the rival submissions.

8. *Vide* order dated August 30, 2000, the petitioner came to be appointed on the post of Talathi by the Collector, Chandrapur. Since the appointment of the petitioner was from seat reserved for the candidates belonging to Vimukta Jati (A), the caste claim of the petitioner was submitted on February 21, 2001 for verification. In the interregnum, the entire record of the Office of the Sub-Divisional Officer, Chimur from where the caste certificate was issued to the petitioner got burnt because of the fire. The petitioner thereafter was issued a fresh caste certificate on January 31, 2023 which was forwarded by the respondent no.2-Employer with the proposal for issuance of the validity certificate. In support of the claim put forth by the petitioner, we have already noted that the petitioner had submitted in all four documents. Since the respondent no.1-Committee was not satisfied with the evidence produced by the petitioner, it referred the claim of the petitioner to the vigilance cell, who in turn, submitted its report dated June 01, 2023. In the said report, there is a mention of caste 'Nhavi' in the school records of Minnath and Bhupendra, real brothers of the petitioner. One of the real

brothers, Bhupendra has stated that their father was in the occupation of hair cutting. In support of his claim, the petitioner had produced on record the school extract of Lokseva Primary School where the petitioner had taken his primary education. The original record was produced before the respondent no.1-Committee by the then Headmaster Anil Patruji Shende on March 09, 2023. At serial number 1960 of Dakhal-Kharij register of the school, name of Eknath @ Bharat Vishwanath Pagade, i.e. petitioner himself is mentioned wherein word 'Banjara' was added after the word 'Nhavi' in a different ink and different handwriting. Such entry was informed to have been made by the then Headmaster Shri Dhawas. Said record i.e. Dakhal-Kharij register does not speak of any justification about addition of word 'Banjara' after the word 'Nhavi' and the said record cannot be tampered by the Headmaster since the Secondary School Code in express terms provides for appropriate procedure to be adopted, viz. Approval of the Education Officer.

In the case in hand, though the petitioner would claim that such entry was carried out authorizedly, rather when the petitioner was called upon to show his response, he sought for an adjournment through his counsel stating that he was indisposed.

9. The fact remains that it was incumbent on the part of the petitioner to examine the said Headmaster or earlier Headmaster of the school so as to justify that the change in the entry 'Nhavi' to be read as 'Nhavi Banjara' was authorized and carried out in accordance with law, which the petitioner has

failed to do. The oldest document which the petitioner has relied is the extract of Dakhal-Kharij register of the year 1985. Apart from above, the petitioner has not produced any record in relation to his elder brother or other blood relations demonstrating that they belong to 'Nhavi Banjara'. The material on record viz. vigilance cell report, statement of witnesses, earlier vigilance cell report contemplates that the petitioner belongs to 'Nhavi' and not 'Nhavi Banjara' Vimukta Jati. The petitioner in such an eventuality cannot blame the respondent no.1-Committee thereby urging that the respondent no.1-Committee cannot collect the evidence so as to disprove the claim claim of the petitioner.

We are required to be sensitive to the fact that the enquiry conducted through vigilance cell was based on the documents submitted by the petitioner and upon verification of the adverse material in relation to very same documents, i.e. original school record, the respondent no.1-Committee has rejected the caste claim of the petitioner.

10. Thereafter, the petitioner was given an opportunity of hearing through notices dated June 01, 2023, July 05, 2023 and July 24, 2023. However, the petitioner had chosen neither to file reply nor to appear before the respondent no1-Committee. The petitioner was again called for hearing on September 21, 2023 and October 06, 2023 to which the petitioner had not responded. As such, it can be inferred that the petitioner was given sufficient opportunity of hearing in the matter. As such,

reliance placed by the petitioner on the judgment of the Division Bench in *Mahesh Pralhadrao Lad* (supra) so as to claim that though the petitioner had failed to produce pre-Constitutional era document, his claim could not have been rejected, cannot be accepted for the reason that the only document produced by the petitioner was found to be tampered with and the petitioner had failed to submit any explanation about the same in spite of getting various opportunities. Similarly, reliance placed on the judgment of the Apex Court in *Anand* (supra) claiming that the respondent no.1-Committee cannot collect evidence to disprove the claim of the petitioner is also required to be discarded as what the respondent no.1-Committee has done in referring the matter to the vigilance cell is to get verified the documents placed on record by the petitioner. During such enquiry, it was noticed that the entry was tampered with and as such the petitioner was called upon to submit his explanation. With regard to the claim of the petitioner by drawing support from the judgment of the Apex Court in *Sayanna* (supra) that it was for the respondent no.1-Committee to prove that the entry is tampered, we are of the view that it was initially for the petitioner to discharge the burden under Section 8 of the Act of 2000 then only the petitioner could have claimed that it was for the respondent no.1-Committee to demonstrate that the said entry is a tampered one.

11. Apart from above, if we look into the vigilance cell report, people belonging to Banjara community speak 'Banjara' language whereas the petitioner in his family is using 'Marathi' as a dialect. In the school record of Minnath and Bhupendra, the real brothers of the petitioner, caste is mentioned as 'Nhavi' and the petitioner has failed to give any explanation regarding the same. As far as other documents are concerned, there is no entry of 'Nhavi Banjara' and everywhere in the caste column, entry 'Nhavi' could be noticed. Apart from above, the petitioner was unable to talk in 'Banjara' language which is spoken by the people belonging to 'Nhavi Banjara' caste. So also, the petitioner was unable to answer about the family deity. In the aforesaid background, it cannot be said that the respondent no.1-Committee has recorded the perverse findings.

12. Since the writ petition lacks merit, the same stands dismissed. No costs.

**(ABHAY J. MANTRI, J.)**

**(NITIN W. SAMBRE, J.)**