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wp 2512.23 R.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2512 OF 2023

Atish s/o. Vikas Ghatе,
Age 26 years, Occ. Education,
R/o At post Aurad, Tq. Omerga,
Dist. Osmanabad, 413 606

.. Petitioner

Versus

1. The State of Maharashtra
through its Secretary,
Social Justice Department,
Mantralaya, Mumbai 400 032.
2. The Joint Commissioner & Vice Chairman,
Scheduled Tribe Certificate Scrutiny Committee
Aurangabad Division, Aurangabad 431 003.
3. The Deputy Collector (Land Acquisition)
Osmanabad, Tq. & Dist. Osmanabad 413 606
4. The Tehsildar Executive Magistrate,
Omerga, Tq. Omerga, Dist. Osmanabad 413 606.
5. Shree Shikshan Pratishthan Sanchalit
Principal, A.D. Joshi Junior College,
Jule-Soapur, Tq. And dist. Solapur 413 004.

.. Respondents.

Mr. O.D. Mane, Advocate for petitioner
Mr. S.K. Shirse, AGP for respondent Nos. 1 to 4
Mr. B.B. Kulkarni, Advocate for respondent No.5

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

DATE : 16th JANUARY, 2024.

Judgment (per S. G. Chapalgaonkar, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.

2. The petitioner approaches this court under Article 226 of the Constitution of India impugning the order dated 21.12.2022 passed by the Scheduled Tribes Certificate Verification Committee, Aurangabad (respondent No.2) thereby invalidating the tribe claim of the petitioner for “Koli Mahadev” Scheduled Tribe.

3. Mr. O.D. Mane, learned counsel for the petitioner would submit that the petitioner was pursuing his education, he was granted caste certificate by the competent authority for “Koli Mahadev (Sr. No.29) Schedule Tribe”. The petitioner’s caste certificate was referred for verification to the committee. The committee directed Vigilance Cell Inquiry. However, the Vigilance Officer never approached the petitioner or his father and submitted misleading report. The petitioner was served with the show cause notice dated 5.5.2020 alongwith Vigilance Report which has been duly replied by the petitioner explaining the adverse remarks. The petitioner had submitted the genealogy in form of affidavit containing requisite details of the blood relations. The petitioner has placed on record the validities granted in favour of two blood relatives, namely, Vyankat Jagannath Ghate and Nilkanth Jagannath Ghate, who are cousins of petitioner’s father. The Committee without considering the aforesaid evidence, invalidated the caste claim of the petitioner for erroneous reasons.

4. Mr. S.K. Shirse, learned AGP appearing for respondent Nos. 1

to 4 vehemently opposes the writ petition and submits that the validities relied upon by the petitioner were obtained by suppression of contra entries. Further, the then Committee has not followed the requisite procedure hence the validities relied by the petitioner do not constitute evidence in support of petitioner's caste claim.

5. We have given anxious consideration to the submissions advanced by learned advocates for the respective parties. We have perused the original record received from the Committee. Pertinently, the petitioner has relied upon the affidavit in form F containing genealogy submitted by the petitioner's father. As per the genealogy, the validity holders Vyankat Ghate and Nilkant Ghate fall in blood relations of the petitioner. The Committee observed that those validities were obtained by suppression of contra entries for the period from 1954 to 1976 in respect of blood relations. Further favourable entries were found to be manipulated. It is further observed that the validity certificate of Vikram Shivaji Ghate has been issued during the regime of Mr. V.S. Patil, Assistant Commissioner, in whose regime large scale irregularities were noticed in the committee's working. Consequently, the Government had issued directions to review such certificates.

6. Apparently, the Committee has not recorded a specific finding that the validity certificates relied upon by the petitioners were obtained by fraud or misrepresentation. Merely because some contra entries were not brought to the notice of the Committee, the validity issued earlier cannot be termed as "fraudulent" unless such suppression is intentional. During the course of arguments, learned AGP submits that Jagannath Ghate, who is father of validity holders Vyankat and Nilakanth denied to have relationship with petitioners as shown in genealogy.

However, we find that the impugned order or the vigilance Report is silent on this aspect.

7. In the light of the aforesaid observations, we deem it appropriate to set aside the impugned order and remand the matter back to the Committee for fresh consideration for confirming the correctness of the genealogy relied by committee so also validities relied upon by the petitioner. Resultantly, we pass the following order :-

O R D E R

- [a] The writ petition is partly allowed;
- [b] The impugned order dated 2/12/2022 passed by the Committee is quashed and set aside;
- [c] The matter is remitted back to the respondent No.2 Committee for fresh decision after affording an opportunity to petitioner to furnish explanation regarding adverse material surfaced during the Vigilance Inquiry including correctness of genealogy;
- [d] The committee shall decide matter as expeditiously as possible and in any case within period of one year from date of this order.
- [e] Rule made absolute in above terms with no orders as to costs.

[S.G. CHAPALGAONKAR,J] [SMT. VIBHA KANKANWADI, J]

grt/-