



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3723 OF 2020**

Ajay S/o Yashwant Bidkar,
Age- 24 years, Occu- Unemployed,
R/o. Post Mandve (Bk), Tq. Sangamner,
Dist. Ahmednagar.

..Petitioner

Versus

1. The State of Maharashtra,
Through Ministry of Tribal Development,
Mantralaya, Mumbai.
2. The Divisional Caste Certificate Validity
Committee Nashik,
through its Chairman,
3. Bharat Petroleum Corporation Ltd.,
Having registered office at
Currimbhoy Road, Balad Estate,
Post Box No. 688, Mumbai-400 001.
Through its General Manager.

..Respondents

...

Mr. A. K. Gawali, Advocate for the Petitioner.
Mr. A. M. Phule, Addl. GP for Respondent Nos.1 and 2.
Mr. A. P. Bhandari, Advocate for Respondent No.3.

...

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

**JUDGMENT RESERVED ON :- 08th APRIL 2024.
JUDGMENT PRONOUNCED ON :- 16th APRIL 2024.**

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.
2. The petitioner approaches this Court under Article 226 of the Constitution of India with following prayers:

“B. The Hon'ble High Court may be pleased to quash and set aside the impugned order dated 13.02.2020 passed by the respondent No.2 Committee thereby refusing to validate the caste certificate of the present petitioner as belonging to 'Koli Mahadev Scheduled Tribe'

C. The Hon'ble High Court may be pleased to direct the respondent No.2 Committee to issue validity certificate in favour of the present petitioner to effect that he belongs to 'Koli Mahadev Scheduled Tribe' on the basis of the Caste Certificate issued by the Sub Divisional Officer, Sangamner on 30.06.2010.”

3. Mr. Gawali, learned Advocate appearing for the petitioner submits that the petitioner belongs to 'Koli Mahadev', Scheduled Tribe. The Competent Authority i.e. Sub Divisional Officer, Sangamner has issued caste certificate in favour of the petitioner. The Bharat Petroleum Corporation-respondent no.3 had issued an advertisement dated 25.12.2018 for location at Serial No.365 in respect of village Palshi, Tq. Parner, Dist. Ahmednagar, thereby calling applications from the eligible candidates for allotment of retail outlet. The location was reserved for Scheduled Tribe category. The petitioner responded the said advertisement and came to be selected for allotment of the retail outlet. The respondent no.3-Corporation forwarded caste certificate of the petitioner for verification to respondent no.2-Divisional Caste Certificate Validity Committee at Nashik. The petitioner's tribe claim was supported by his own school leaving certificate and similar record of his blood relatives, which depicts entry of 'Mahadev Koli' in the caste column. The Committee referred the petitioner's claim to the vigilance cell. The report of the enquiry was served upon the petitioner, which is duly replied by him. The Committee vide impugned order dated 13.02.2020 invalidated the petitioner's caste claim, mainly on the ground of failure in the affinity test and non-submission of the Pre-Constitutional documents.

4. Mr. Gawali, learned Advocate further submits that the petitioner had enclosed the school leaving certificate of Nivrutti Mahadu Bidkar, wherein date of admission is mentioned as 01.12.1955 and caste column records entry of 'Hindu Mahadev Koli'. Similarly, the school leaving certificate of Ramdas Shankar Bidkar from Zilla Parishad School, Mandve (Bk.) regarding school admission dated 09.06.1968 is placed on record, which depicts entry of 'Mahadev Koli' in the caste column. Apart from the aforesaid school admission record of blood relatives, the petitioner had placed on record the notice issued by the Kamgar Talathi of village Mandve (Bk.), whereby Jivna Bana (Banaji) Bidkar was given possession of the portion of land from Gut No.980. The said notice specifically mentions the Jivna Banaji Bidkar belongs to Scheduled Tribe. Mr. Gawali, learned Advocate would, therefore, submit that there was impeccable record depicting tribe status of the petitioner. The Committee declined to rely upon the said material without assigning justifiable reasons. As such, the order of the Committee deserves to be quashed and set aside.

5. Mr. Phule, learned A.G.P. appearing for respondent nos.1 and 2 invites attention of this Court to the reasoning adopted by the Committee. He would point out that the school admission record of Mr. Nivrutti Mahadu Bidkar dated 01.12.1955 appears to be altered and word 'Mahadev' has been subsequently inserted. Similarly, the school admission entry of the petitioner's uncle namely Ramdas Shankar Bidkar is dated 09.06.1968 that is much after promulgation of Presidential Order of 1950 regarding inclusion of 'Mahadev Koli' as Scheduled Tribe. He would further invite our attention to the school admission record of Shital Yashwant Bidkar, i.e petitioners real sister which depicts entry

dated 03.06.1993 in caste column as 'Hindu Koli'. He would, therefore, submit that the petitioner failed to establish his claim unequivocally. Mr. Phule, learned A.G.P. would further invite our attention to the result of the affinity test in which the petitioner is failed.

6. We have considered the submissions advanced on behalf of the learned Advocate appearing for the respective parties. We have perused the documentary evidence tendered into service before us. The original claim folder is also made available by the learned A.G.P.. We have gone through the documents contained in the said folder. The petitioner claims that he belongs to the 'Mahadev Koli', Scheduled Tribe. It is a matter of record that none of the blood relatives of the petitioner is granted caste validity till this date. Reliance of the petitioner is mainly on two documents. Firstly, the school admission entry of his second cousin uncle namely Nivrutti Mahadu Bidkar and school admission entry of the real uncle Ramdas Shankar Bidkar. So far as the school admission entry of Nivrutti Mahadu Bidkar dated 01.12.1955 is concerned, the report of vigilance cell stipulates that there is alteration in the entry and word 'Mahadev' has been subsequently inserted. Nothing is placed before us to controvert the findings recorded by the vigilance cell and Committee on this aspect. Therefore, the said evidence would not be of any assistance to establish the petitioner's claim. The second document relied by the petitioner is regarding school admission entry of his real uncle Ramdas Shankar Bidkar dated 09.06.1968. Although, the Committee or vigilance cell have not doubted the correctness of the said entry, it is observed that the same is recorded after 18 years of the Presidential Order and cannot form sole basis to decide the tribe status of the petitioner. Apart from the aforesaid evidence, the petitioner sought his

reliance on the possession receipt dated 14.03.1959, which records that the portion of the land would be handed over to the Jivna Bana Bidkar, resident of village Mandve (Tribal). The said document nowhere records particular tribe or particularly 'Mahadev Koli' tribe. Perusal of the original record tendered before the Committee shows that the aforesaid document was not placed into service in support of the petitioner's claim.

7. It is trite that, in absence of the documentary evidence, the result of the affinity test assumes significance while deciding the tribe status. The statement of the petitioner's mother appears to have been recorded before the Committee. Similarly, the report of the vigilance cell is taken into consideration. The petitioner failed to prove cultural affinity with 'Mahadev Koli' tribe. The reasons as recorded by the Committee are based on scrutiny of the evidence on record. We are of the considered view that, the Committee has taken possible view based on material tendered into service on behalf of the petitioner. It is well settled that in cases where Scrutiny Committee has decided on validation of the caste claim, the Court should refrain from interfering unless Committee's decision suffers from perversity.

8. The Supreme Court in case of **Dayaram Vs. Sudhir Batham & Ors.**¹, observed that the scrutiny committee is not an adjudicating authority like a Court or Tribunal, rather it is administrative body that verifies the facts, investigates into a specific caste claim and ascertains whether the caste claim is correct or not. It is further observed that Writ Court is not supposed to review the evidence. The jurisdiction is supervisory and Court exercising it, ought to refrain to act as an Appellate Court unless the facts so warrant. It also ought not to re-

¹ (2012) 1 SCC 333.

appreciate the evidence and substitute its own conclusion interfering with the findings, unless perverse. The High Court in Writ of Certiorari should not interfere, when such challenge is on the ground of insufficiency or adequacy of material to sustain impugned finding. Recently, in case of ***Navneet Kaur Harbhajansing Kundles @ Navneet Kaur Ravi Rana Vs. State of Maharashtra and Others (Civil Appeal No(s).2741-2743 of 2024)*** decided on **04.04.2024**, the Supreme Court reiterated the aforesaid legal position and observed that under under Rule 13(2)(a) of 2012 Rules, the adjudication on the basis of the documents falls solely within the domain of Scrutiny Committee based on the inputs received from the Vigilance Cell. The Scrutiny Committee is an expert forum armed with fact finding authority. The High Court ought not to have interfered, especially when Scrutiny Committee had followed the due procedure under Rule 12, 17 and 18 of the 2012 Rules and that there was nothing perverse about a finding of fact.

9. If we apply the aforesaid principles of law espoused by the Supreme Court, we have no hesitation to hold that the Committee has followed due process of law, applied mind to the material tendered into service and recorded findings in consonance with the documentary evidence and established procedure. Resultantly, Writ Petition sans merit and hence, dismissed.

10. Rule is discharged.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE