



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4368 OF 2020
WITH
CIVIL APPLICATION NO.12309 OF 2023
IN WP/4368/2020

Niklesh s/o Shivram Zinjurde
Age: 23 years, Occu.: Education
R/o. Ambelohal, Tq. Gangapur,
Dist. Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad, Dist. Aurangabad.
3. The Principal,
Raje Shahaji Junior College,
(Art, Science and Commerce),
Ambelohal, Tq. Gangapur,
Dist. Aurangabad.

.. Respondents

...
AND
WRIT PETITION NO.4369 OF 2020
WITH
CIVIL APPLICATION NO.12308 OF 2023
IN WP/4369/2020

Yogesh s/o Sanjay Zinjurde
Age: 21 years, Occu.: Education,
R/o. Toki, Tq. Gangapur,
Dist. Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad, Dist. Aurangabad.
3. The Principal,
Raje Shahaji Junior College,
(Art, Science and Commerce),
Ambelohal, Tq. Gangapur,
Dist. Aurangabad.

.. Respondents

...
AND
WRIT PETITION NO.5988 OF 2020
WITH
CIVIL APPLICATION NO.12310 OF 2023
IN WP/5988/2020

Ritik s/o Shivram Zinjurde
Age: 19 years, Occu.: Education,
R/o. Ambelohal, Tq. Gangapur,
Dist. Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad, Dist. Aurangabad.

3. The Principal,
Raje Shahaji Junior College,
(Art, Science and Commerce),
Ambelohal, Tq. Gangapur,
Dist. Aurangabad.

.. Respondents

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Mr. S. M. Vibhute, Advocate for petitioners in all the writ petitions.

Mr. P. S. Patil, AGP for respondents – State in all the writ petitions.

Mr. S. N. Lale Yelwatkar, Advocate for applicants in all the civil applications.

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

DATE : JANUARY 10, 2024.

JUDGMENT (Per Smt. Vibha Kankanwadi, J.) :-

. Rule. Rule made returnable forthwith. Heard learned Advocates for the appearing parties finally by consent.

2. By these petitions, the petitioners, who are the relatives i.e. two of them are real brothers and another is cousin, are seeking quashment of the impugned judgment and order invalidating their caste claim.

3. The petitioners claim that they belong to 'Koli Mahadev', which a Scheduled Tribe. After their proposals for validation were referred to respondent No.2 Committee, the Vigilance Cell has conducted inquiry and after the report was received, it is stated that respondent No.2 – Committee had issued show cause notice to the petitioners on 05.08.2019 along with

the copy of said report to file their say. The say was given. Thereafter, the common judgment and order has been passed.

4. The petitioners contend that at the time of filing verification proposals by Yogesh and Ritik, inadvertently they have not given detailed genealogy, but the detailed genealogy of the family of the petitioners was given in the vigilance inquiry. It is the contention of the petitioners that they could not get a proper opportunity to explain the contra entries and, in fact, there was no interpolations in the documents, which they relied. Learned Advocate for the petitioners contend that the oldest document was the Khasra Pahani Patrak of the year 1954-1955 and in the judgment, respondent No.2 Committee has unnecessarily concluded that 'Koli Mahadev' word has been inserted later on. He prayed for remand, though it has not been specifically prayed in the petitions so that the petitioners can get a proper opportunity to explain the alleged contra entries.

5. Learned AGP has strongly opposed and submitted that a detailed inquiry has been conducted. Proper opportunity was given to the petitioners by issuing show cause notice to file reply in respect of the report submitted by the Vigilance Cell and after hearing the learned Advocate for the petitioners, the order has been passed. Reasons have been given. Under the said circumstance, there is no question of giving any more opportunity.

6. We had considered the record and proceedings, which was made available by the respondents. The photocopy of the Khasra Pahani Patrak in fact does not appear to be in different ink or handwriting. The entry at Serial No.26 relied by the present petitioners is in respect of Rangulal Shankar. If the committee was of the opinion that it is in different handwriting, then the original ought to have been called. Mere reliance on the Vigilance Cell report in that respect will not be proper. Further, it appears that the Vigilance Cell Officer has not recorded the statement of the revenue officer/clerk, who is the custodian of said Khasra Pahani Patrak. In order to arrive at a conclusion that a particular entry is in different handwriting and ink, only that page need not be considered. Few pages from the said Khasra Pahani Patrak should have been perused.

7. It appears that the Vigilance Officer has collected school record of various relatives of the petitioners. What was disturbing is that the documents themselves were not collected, but certificate or opinion of the headmaster on a chart has been taken. One of the old entry in respect of admission to the school of paternal aunt of the petitioners is dated 19.07.1976 and that of uncle is dated 27.07.1978. The headmaster himself is certifying that the entry in respect of caste is in different handwriting and ink. When he is supposed to be the custodian of the document, such remark was not sufficient. He will have to explain as to when that change or

insertion would have been made. The document itself was not before the committee. Same is the case as regards school record of relative Zinjurde Ankush Baburao, Zinjurde Sanjay Bandu and Zinjurde Raju Laxman. Therefore, we are of the opinion that unless the record itself is not before the committee or clear photocopy as if it was the original (in which the clear distinction between the change in the handwriting and the ink is visible), is before the committee or it was so perused personally by the Vigilance Cell Officer, these documents could not have been discarded by the committee, when those documents were in favour of the petitioner.

8. As regards the show cause notice is concerned, it appears that the copy of the report is given and it is vaguely stated that there are contra entries. Further, in respect of genealogy is concerned, we agree to the submissions that people generally give a limited genealogy on which they want to rely. They may not give the complete genealogy. A person unless has knowledge about the names of the ancestors will not give the genealogy, but when he has the knowledge, then he ought to have given it, but for some mistaken fact he has not given the complete genealogy and that does not mean that there was no relationship. Therefore, an opportunity ought to have been given by the committee to the petitioners to explain the genealogy, which was drawn by the Vigilance Cell.

9. We are of the opinion that the matters need remand as proper

opportunity was not given. All the writ petitions deserves to be partly allowed. Hence, the following order :-

ORDER

- I) All the Writ Petitions stand partly allowed.
- II) The impugned judgment and order dated 08.08.2019 passed by respondent No.2 Committee, invalidating the Tribe Claim of petitioners of 'Koli Mahadev', stands quashed and set aside. Their matters are remanded before respondent No.2 Committee.
- III) Respondent No.2 Committee to give an opportunity to the petitioners to explain the contra entries and also to call the photocopies of the registers in respect of which it is observed by the Committee that there is insertion of caste under different ink and handwriting. Even in that report, opportunity of being heard should be given to the petitioners.
- IV) Liberty is given to the petitioners to place on record any other documents on which they want to rely, which may also be got verified by the Committee.
- V) Thereafter respondent No.2 Committee to proceed to decide the matter as per the law.

VI) In view of the fact that the matter pertains to students, we expedite the inquiry. The inquiry should be completed within two months from today and the decision be given by the Committee within one month upon the conclusion of inquiry.

VII) Pending civil applications, if any, stand disposed of.

VIII) Rule is made absolute in the above terms.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm