

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 12899 OF 2018

Rajendrakumar Baburao Jangam

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. R.K. Mendadkar for the Petitioner

Ms. Pooja Joshi Deshpande, AGO for the Respondents 1 and 2

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 28 JUNE 2024

P.C. :-

The Petitioner has challenged the order passed by the Respondent No.2 – District Caste Certificate Scrutiny Committee, Ratnagiri dated 8 May 2018 invalidating the caste certificate issued to the Petitioner on 6 December 1995 as Bada Jangam (Scheduled Caste).

2. The Petitioner applied to the Competent Authority for a caste certificate as belonging to Bada Jangam (S.C.) Community. The caste certificate was issued to the Petitioner as Bada Jangam (S.C.) on 6 December 1995 by the Competent Authority, Executive

Magistrate, Chiplun. The caste certificate was sent for verification to the Scrutiny Committee. The Scrutiny Committee directed a Vigilance Cell enquiry. Report was submitted. The Petitioner submitted the documents and also written explanation. The Scrutiny Committee, after considering the evidence on record invalidated the caste certificate as belonging to Beda Jangam (S.C.) by the impugned order. Thereafter, the Petitioner is before us with this Writ Petition.

3. We have heard Mr. R.K. Mendadkar, learned Counsel for the Petitioner and Ms. Pooja Joshi Deshpande, AGP for the State.

4. The procedure for issuance and verification of caste certificates is governed by the Act 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. Rules have been framed under the said Act titled Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (the Act and Rules). Section 8 of the Act places burden on the candidate to produce evidence in support of his caste claim. The Hon'ble Supreme Court in the case of *Kum. Madhuri Patil v/s. Additional Commissioner*¹ has laid down the documentary evidence showing that the person belongs to a particular caste prior to 1950 would have significance. The pre-Constitution period documents therefore are of importance.

1 AIR 1995 SC 94

5. The Petitioner had submitted the documents in support of his caste claim. In the School Leaving Certificate of the Petitioner of the year 1965 in the caste column the entry is Hindu Lingayat. The Petitioner has produced thereafter various documents which are of recent period which showed the entry as Beda Jangam. The entry in respect of the Petitioner's father was Hindu Lingayat. The entries in respect of the Petitioner's brother Ravindra of secondary school is shown as Beda Jangam however, the entry in the school was of the year 1984. Though the Petitioner's College Leaving Certificate shows the entry as Beda Jangam in the Primary and Secondary School record of the Petitioner, the entry is Hindu Lingayat. Even in the father's School Leaving Certificate of 1943, the entry is Hindu Lingayat. As regards the Petitioner's father Baburao Ganpati Jangam, the entry in the school record is Beda Jandam. The report from the School authority was called for as regards the entry as Beda Jangam. The report stated that the entry Beda Jangam was made first time in June 1991 and this was not the entry prior to 1950. This is the stage of the documentary evidence.

6. The learned Counsel for the Petitioner sought to contend that the Scrutiny Committee itself has stated that Lingayat is not a caste and it is the religion and therefore, these entries cannot be held against the Petitioner. This argument overlooks the burden placed on the Petitioner under Section 8 of the Act. There is not a

single unquestionable document prior to the period 1950 of any of the Petitioner's blood relatives to show that the Petitioner is of Beda Jangam caste. Therefore, this argument cannot be accepted.

7. The learned Counsel for the Petitioner submitted that the entry in the Petitioner's father's school record as Beda Jangam should not have been doubted and change in the school record was carried out as per Rules. Allegation here is not that the Petitioner illegally carrying out the entry in the school record but the veracity of the Petitioner's claim and the evidentiary value of such document to determine the caste status of the Petitioner. The Hon'ble Supreme Court in the case of *Madhuri Patil* has emphasized on the importance of pre-Constitutional period documents for the reason as to what was the caste declared by the candidate when no benefits were available. If changes are made in the records after benefits were made available, this creates doubt on the veracity of the Petitioner's assertion. The School Authorities while carrying out the change are not final authorities for determination of the caste claim and that jurisdiction is entrusted to the Caste Scrutiny Committee. The Petitioner's father's school record, did not contain the entry was not of Beda Jangam till this entry was made in the year 1991. Therefore, if the Scrutiny Committee has not considered this document as unquestionable, the approach cannot be considered as perverse.

8. The learned Counsel then sought to contend that the report of the Vigilance Cell was in favour of the Petitioner and the Petitioner should have been given an opportunity by passing a separate order with reasons on the Vigilance Cell report. There is no merit in this contention. The procedure before the Scrutiny Committee is contained in Rule 17 of the Rules. The Scrutiny Committee after receipt of the Vigilance Cell report is required to furnish the copy to the Applicant calling for explanation. The Petitioner in the Writ Petition has accepted that the Vigilance Cell report was received by the Petitioner and he was directed to file his reply. The contention of the Petitioner that separate show cause notice on the point of affinity was not issued is not shown to be traceable to any Rule.

9. The learned Counsel for the Petitioner then submitted that the Scrutiny Committee could not have discarded the report of the Vigilance Cell and if he wants to discard the same should have given reasons for the same. Both these submissions do not have any merit under Rule 17(7) of the Rules and the findings recorded by the Vigilance Cell are not binding on the Scrutiny Committee.

10. As to why the Scrutiny Committee did not accept the findings if they are present in the impugned order, the Scrutiny Committee has discussed the Vigilance Cell report in detail. The Scrutiny Committee found that the Vigilance Cell only examined

the record of the College without examining the primary school record. The school record of the Petitioner's father was not properly examined. Thereafter, that the Scrutiny Committee has recorded the finding that the Petitioner's family was vahivatdar of Nagnath Dev Temple and were given the task of playing 'sambal' and were also had Devasthan Inaam in their favour.

11. Therefore, the Petitioner had an opportunity to submit his say and after considering the same, the Scrutiny Committee has taken its decision. The Scrutiny Committee having considered totality of evidence and entries as Hindu Lingayat found the Petitioner as failed to establish his claim to Beda Jangam (S.C.). Having gone through the material on record and the order of the Scrutiny Committee, we find that the conclusion drawn are based on the material. The findings are not perverse neither any mandatory provision of law has been breached.

12. Under these circumstances, there is no merit in this Writ Petition. The Writ Petition is dismissed.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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