



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.1203 of 2018

Raju Ragunath Kohad

..Petitioner

versus.

Scheduled Tribe Caste Certificate Scrutiny

Committee, through its Member Secretary and others. .. Respondents

Mr. M.V.Bute, Advocate for petitioner.

Mr.A.M.Kadukar, Assistant Government Pleader for respondent nos.1 to 3.

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

DATE :- 8th AUGUST, 2024

P. C.

The petitioner, who was appointed on a public employment with Deputy Director of Health Department on the post of 'Junior Clerk' under the Scheduled Tribe category, is subjected to face the Caste Scrutiny Committee for issuance of validity certificate based on the Certificate dated 13.02.1989 certifying that he belongs to 'Halba' Scheduled Tribe.

2. The Committee vide impugned order dated 24.01.2018 rejected the tribe claim of the petitioner.

3. Mr. Bute, learned counsel appearing for the petitioner would urge that from the documentary evidence, so also the affinity test undergone by the petitioner, he has established that he belongs to 'Halba' Scheduled Tribe. So as to substantiate his contention, he would invite the attention of this Court to the school documents in relation to the petitioner of 07.05.1982, 18.07.2013 and 03.07.1978. He would claim that in the primary school record the caste of the petitioner is recorded as 'Halba' and as such, he was issued the caste certificate. In addition, his contention is, the petitioner in response to the Vigilance Cell has satisfied the affinity test. He would rely on the observations of the Committee for that purpose.

4. As against above, Mr. Kadukar, learned Assistant Government Pleader, would urge that even if the entries in the school record of the petitioner from 03.07.1978 are that of Halba, it is for the petitioner to establish that he belongs to 'Halba' Scheduled Tribe pursuant to the burden cast on him under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jati), 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).

5. The learned Assistant Government Pleader would further urge that the documents of pre-constitutional era in relation to father-Raghunath, uncle-Mahadev and cousin brothers; namely Keshav and Tukaram depict the caste entries of 'Koshti'. It is claimed that these entries are from 1928 to 1952. According to the learned Assistant Government Pleader, the petitioner has failed to give satisfactory explanation and has also failed to satisfy the affinity test and as such dismissal of the petition is sought.

6. We have considered the rival submissions.

7. The Vigilance Cell has conducted an enquiry pursuant to the provisions of Rule 12 of Maharashtra Scheduled Tribes (Regulation of Issuance and verification of) Certificate Rules, 2003 (for short "the ST Rules") and in the report submitted to the Committee dated 22.05.2014 the documents in relation to father, uncle and cousin brothers collected from Mangalwari Primary School, Umred, were made available. All the four documents from 1928 to 1952 in relation to uncle, father and cousin brothers depict entry 'Koshti'.

8. The explanation furnished by the petitioner was tested in the light of the statement of his sister namely Sou. Shakuntala who has also stated about the customs, traditions and trait followed by the family. The petitioner has chosen to remain absent before the Committee for the purpose of hearing.

9. The Committee thereafter analyzed the claim of the petitioner and noted that in the caste column of the father, uncle and cousin brothers, the pre-constitutional era entries are of 'Koshti' caste. The Committee has observed that the occupation in the said document is reflected as weaving, which occupation is adopted and followed by the people belonging to 'Koshti' caste, who are recognized as Special Backward Class (SBC) category. Even otherwise 'weaving' as an occupation is taboo in the people 'Halba' Scheduled Tribe.

10. The Committee thereafter proceeded to consider the information supplied by the sister of the petitioner Sou. Shakuntala so as to verify whether the petitioner satisfies the affinity test.

11. The fact remains that the petitioner has chosen not to appear before the Committee to controvert the Vigilance Cell report and the contents therein.

12. The fact about the occupation followed by the family members of the petitioner and his ancestors of weaving sufficiently establishes that they belong to 'Koshti' Special Backward Class category and not 'Halba' Scheduled Tribe category.

13. Apart from above, the fact remains that the petitioner has failed to establish that he belongs to 'Halba' Scheduled Tribe thereby discharging the burden cast on him under the provisions of Section 8 of the Act of 2000. The Committee in detail has gone into all the aspects of the matter and has recorded adverse finding against the petitioner. The finding as such recorded by the Committee appears to be quite justified based on the documentary evidence and statutory provisions.

14. As such, there is no substance in the petition. The writ petition is accordingly dismissed. No order as to costs.

15. Considering the length of service rendered by the petitioner and the existing policy of the State Government, in case if a prayer is made for

taking the services of the petitioner on supernumerary post, the employer is directed to consider such prayer based on the policy of the State Government.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.