



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

WRIT PETITION NO. 2563 OF 2024

Dwarkabai d/o Purnaji Bhoi
(maiden name) @ Dwarkabai
w/o. Ananda Mesare,
Aged about 35 years, Occ.- Sarpach,
Gram-Panchayat Sasti, R/o Sasti,
Tq. Patur, District – Akola.

.... PETITIONER

VERSUS

- 1) Scheduled Tribe Certificate Scrutiny
Committee, Amravati Division,
Amravati, through its Joint Commissioner
and Vice President, Amravati.
- 2) Sau. Minakshi Gajanan Daberao,
Aged about 26 years, Occ. - Household,
R/o Sasti, Tq. Patur, District Akola.
- 3) Shri Sunil Ramesh Band,
Aged about 35 years, Occ. - Business,
R/o Sasti, Tq. Patur, District – Akola.

.... RESPONDENTS

Mr. A.R. Deshpande, Counsel for the petitioner,
Mr. D.P. Thakare, Addl.G.P. for respondent No.1.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**
DATED : 3rd May, 2024

ORAL JUDGMENT : (Per : Abhay J. Mantri, J.)

RULE. Rule made returnable forthwith. Learned
Additional Government Pleader Shri D.P. Thakare waives notice of

hearing for respondent No.1. In view of the order proposed to be passed, notice of hearing on respondent Nos.2 and 3 is dispensed with.

2. The challenge in the petition is to the impugned order dated 16-02-2024 passed by respondent No.1-Scheduled Tribe Certificate Scrutiny Committee, Amravati (for short "*the Committee*"), whereby the claim of the petitioner that she belongs to '*Andh*' Scheduled Tribe came to be rejected.

3. The facts, in a nutshell, of the case are as follows:

(a) The petitioner was elected as a Member of the Gram-Panchayat Sasti from the open category. *However*, based on the tribe certificate of the '*Koli Mahadeo*' Scheduled Tribe, she was elected as *Sarpanch* against the reserved Scheduled Tribe category, which the Committee subsequently invalidated. Therefore, the post of *Sarpanch* of Gram-Panchayat Sasti was vacated.

(b) Thereupon, an election was held on 09-06-2023. In the said election, one more time, the petitioner was elected against the reserved post for the Scheduled Tribe category. For which she obtained the Caste Certificate, which shows that she belongs to the '*Andh*' Scheduled Tribe. The petitioner, through Tahsildar and Gram-Panchayat Returning Officer, Patur, submitted her Tribe Claim to the

respondent Committee on 09-01-2023. The Committee, dissatisfied with the document, forwarded the same to the vigilance cell enquiry. The Vigilance Cell conducted the enquiry and submitted its report to the Committee on 25-07-2023. Pursuant to the receipt of the vigilance cell report, a show cause notice was issued to the petitioner for adversarial materials/entries found during the vigilance cell enquiry, and she was called upon to explain the same. The petitioner's explanation was not found satisfactory. Considering the vigilance cell report, the Committee rejected the petitioner's claim and cancelled the certificate granted in her favour. As such, this petition.

4. Mr. A.R. Deshpande, learned Counsel for the petitioner, has vehemently contended that the Committee has not considered the genealogical tree submitted by the petitioner but also discarded the entries in the document of the year 1910. The act of the Committee in discarding the said document deprives the petitioner of the right to grant the claim. The document of the year 1910 depicts that the petitioner's grandfather, Damaji, belongs to the '*Andh*' Scheduled Tribe. Therefore, he urged that the impugned order is bad in law and liable to be quashed and set aside.

5. As against Mr. D.P. Thakare, learned Additional Government Pleader for respondent No.1 has strenuously argued that during the vigilance cell enquiry, it was found that the ancestors of the petitioner belong to '*Bhoi*' (Nomadic Tribe). However, the petitioner failed to explain the said entries and failed to discharge the burden under Section 8 of the Maharashtra Scheduled Caste, 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 (for short "the Act"). He further canvassed that the petitioner initially obtained a Caste Certificate that she belongs to '*Koli Mahadeo*'. Subsequently, she claimed that she belonged to the '*Andh*' Scheduled Tribe and thereby tried to mislead the authority and the Court. Therefore, he has urged that the petition is liable to be dismissed with heavy costs.

6. We have considered the rival submissions made by the learned counsel for the parties and perused the impugned order and record.

7. The petitioner's claim was looked into by the Scrutiny Committee in view of the complaint lodged by Meenakshi and one Sunil, as the petitioner was elected as Sarpanch against the seat reserved for the Scheduled Tribe category. In support of her claim, the petitioner had

relied on the caste certificate dated December 01, 2022, and various affidavits. The isolated document of 1910 in regard to Damaji claiming to be the petitioner's grandfather was also produced. The petitioner also produced a document of 1995 in relation to her father and herself depicting the caste 'Bhoi'. The complainant has relied on the caste certificate of '*Koli Mahadeo*' obtained by the petitioner on December 30, 1996 and the nomination form. It is claimed that in the said document, the caste of the petitioner is mentioned as Koli Mahadeo. The vigilance cell report dated July 25, 2023, speaks of the petitioner belonging to the '*Bhoi*' caste. The statement of Punjaji Laxman More, who is related to the petitioner, apparently speaks of the caste of the petitioner as '*Bhoi*'.

8. It appears that during the vigilance cell enquiry, the Vigilance Cell found documents with entries for the years 1962, 1965, 1993, and 1995 onwards pertaining to her grandfather, sister, and cousin brothers, wherein their caste is shown as '*Bhoi*' (NT). The said adverse entries of 1995 of herself and other entries in relation to the grandfather, sister, and cousin brothers, along with the vigilance cell report, were served on her. Despite the service of the vigilance cell report, the petitioner neither explained the said entries nor disputed the same. She has contended that the vigilance cell had not verified the original record and sought re-enquiry through the vigilance cell. Thus, she failed to explain the said adverse entries.

9. The petitioner has produced a document at serial number 5 of 1910 to substantiate the claim. It is claimed that the said entries pertain to her grandfather, Damaji, which shows that in the year 1910, a daughter was born to Damaji. However, during the vigilance cell enquiry, the Vigilance Cell found that said Damaji had no relationship with the petitioner's family. The said entry has no concern with the grandfather of the petitioner, Damaji, but the said entry pertains to a person named Damaji from another family, who is from Jam village, of which the petitioner has no connection. Therefore, the Committee discarded the said document.

10. It is a settled principle that a person gets their caste by birth. Likewise, from childhood, people know what caste they belong to. The petitioner initially claimed that she belongs to the '**Koli Mahadeo**' Scheduled Tribe. Subsequently, she changed her stand and claimed to be belonging to the '**Andh**' Scheduled Tribe. However, she failed to produce any pre-independent era document supporting her claim to show that she belongs to the '**Andh**' Scheduled Tribe. *Per contra*, entries in the documents of the years 1962 and 1965 pertain to her grandfather, and her own entries of 1995 depict that they belonged to the '**Bhoi**' caste, which was not disputed by the petitioner. The document of the year 1910 has already been discarded by the

Committee as the petitioner has no concern with it. Thus, the petitioner failed to discharge the burden that lies under Section 8 of the Act on her to prove that she belongs to the '*Koli Mahadeo*' or '*Andh*' Scheduled Tribe.

11. That being so, the aforesaid evidence collected by the vigilance cell, which is of the years 1962 and 1965 onwards, being the oldest documents, has more probative value and can be safely relied on for rejecting the tribe claim of the petitioner. As such, from the available documentary evidence, it cannot be said that the petitioner has discharged her burden as provided under Section 8 of the Act, thereby proving that she belongs to the '*Andh*' Scheduled Tribe.

12. As far as the satisfaction of the affinity test is concerned, the record depicts that the statement of the father of the petitioner recorded by the vigilance cell shows that they claim that they belong to '*Bhoi*' (NT Category) and their ancestors' traditional occupation was shown as labourer. The information gathered by the vigilance cell does not conform to the customs and traditions of the '*Andh*' schedule tribe.

13. As such, it can be inferred that there are six documents from the years 1962 till 1997 that pertain to grandfather, sister, cousin, brothers, and the petitioner herself, which depict their caste as '*Hindu*

Bhoi. The petitioner failed to explain such adverse entries. *Besides*, in the statement given by the cousin brother, it is stated that they belong to the ***Bhoi*** community/caste. Thus, there is no reason to disbelieve the aforesaid documents and statement of the cousin brother of the petitioner. In this background, the petitioner has failed to produce documents on record to show that she belongs to the '*Andh*' Scheduled Tribe. She also failed to explain the adverse material discussed above.

14. In this background, the petitioner, in our opinion, cannot be said to be belonging to the '*Andh*' Scheduled Tribe. Rather, the Committee, in our opinion, is justified in recording a finding that the petitioner has failed to demonstrate and establish that she belongs to the '*Andh*' Scheduled Tribe.

15. The principle of equity, if looked into in the backdrop of the factual matrix of the present case, the least that was expected of the petitioner was to approach the Scrutiny Committee so also this Court with clean hands. The fact that the petitioner initially obtained the caste certificate of belonging to '*Koli Mahadeo*' on December 30, 1996, is not disputed. The petitioner thereafter claimed that she belonged to the '*Andh*' Scheduled Tribe and one document of 1920 pertaining to one Damaji. The school record in relation to the petitioner depicts the caste of the petitioner as '*Bhoi*' and 'Hindu Bhoi'. Similarly, in the birth extract of

1965, the caste of the petitioner's grandfather, Dama, is recorded as '*Bhoi*' and other relations viz. Brothers and sisters, the school record speaks of the '*Bhoi*' Nomadic Tribe.

16. The said caste entries, if looked into in the light of the information furnished by the father of the petitioner to the vigilance cell as regards the affinity and the observations in the foregoing paragraphs, apparently speak about how the petitioner's claim of belonging to '*Andh*' Scheduled Tribe could be falsified. The petitioner, who has obtained two caste certificates, one belonging to the '*Andh*' Scheduled Tribe, which is under challenge, and another belonging to '*Koli Mahadeo*', apparently speaks of the intention of the petitioner of procuring illegal benefits by claiming false social status. The petitioner, so as to justify such a false claim, has relied on entries that are not at all related to her. Her conduct of contesting the election on the post reserved for Scheduled Tribes, in spite of the fact that she had earlier held the caste certificate of '*Koli Mahadeo*' and subsequently had got the caste certificate of belonging to '*Andh*' sufficiently speaks of her intention to practice fraud in the matter of obtaining not only the caste certificate but also the benefits thereunder. The conduct of the petitioner of drawing social benefits though she was not entitled in law, has resulted in the deprivation of an opportunity for the genuine Scheduled Tribe candidate to get elected as Sarpanch on the post reserved for Scheduled Tribe. Such fraudulent conduct of the

petitioner is required to be dealt with iron hands as the petitioner who aspired to be a politician has tried to draw undeserving benefits.

17. The Committee, while giving a finding on issue No. 3, categorically observed that for availing the facilities of *Sarpanch*, obtained a forged certificate. She also suppressed the real facts from the Committee. Furthermore, based on fake documents, the petitioner tried to get a Schedule Tribe certificate to which she was/is not entitled.

18. It further revealed that to achieve the post of *Sarpanch*, which was reserved for the Schedule Tribe category, initially, she claimed that she belonged to the '*Koli Mahadeo*' Scheduled Tribe. After the rejection of her said claim, she claimed that she belonged to the '*Andh*' Scheduled Tribe by procuring fake documents from the year 1910, of which she has no concern. Thus, it appears that she cheated the government authorities, committees, the Court and the public at large, knowing well that she did not belong to the Schedule Tribe category. In the aforesaid circumstances, we are of the view that the petition is liable to be dismissed with heavy costs.

19. In the background above, we are of the view that no case for interference in extraordinary jurisdiction is made out. The petition,

being bereft of any merit, stands dismissed with costs of **Rs.50,000/-** (Rupees **Fifty Thousand**) to be paid by the petitioner to the District Legal Aid Services Sub-Committee, Akola, on or before 31-7-2024, failing which the Registrar (Judicial) of this Court will take appropriate action for recovery of the same, in accordance with law.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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