



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

WRIT PETITION NO. 3228 OF 2024

Vilas s/o Ramkrushna Jane,
Aged about 45 years, Occ. - Private,
R/o Ward No.1, Jolwadi, Tq. Ashti,
District Wardha.

.... **PETITIONER**

VERSUS

1) District Caste Certificate Scrutiny
Committee, Wardha, through its
Member Secretary, Dr. Babasaheb
Ambedkar Samajik Nyaya Bhavan,
Near Mahila Ashram, Laxmi Nagar,
Sevagram Road, Railway Station
Marg, Wardha.

2) The Collector, Wardha,
Tq. & District Wardha.

.... **RESPONDENTS**

Mr. S.D. Chopde, Counsel for the petitioner,
Mr. J.Y. Ghurde, A.G.P, for the respondents.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 29th AUGUST, 2024

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

Rule. Rule is made returnable forthwith by consent of the
learned Counsel for the parties.

2. The challenge is raised to the order dated 25-04-2024 passed by respondent No.1-District Caste Certificate Scrutiny Committee, Wardha (for short, "*the Committee*"), thereby invalidating the caste claim of the petitioner that he belongs to '*Kunbi*' Other Backward Class (OBC).

3. The petitioner claims that he belongs to '*Kunbi*' OBC. Accordingly, on 09-10-2023, the Sub-Divisional Officer, Arvi, issued a Caste Certificate in his favour. Based on the said Caste Certificate, he was elected as *Sarpanch* at Grampanchayat Jolwadi, Tq. Asti, against the reserved category of OBC. After that, the petitioner submitted his application for the grant of a validity certificate through the Tahsildar to the Committee. In support of his claim, the petitioner has submitted his Caste Certificate along with the documents.

4. The Committee scrutinized the documents and found that the Leaving Certificate issued in the petitioner's father's name was doubtful. Hence, the Committee issued a letter to the school to produce the original record before it. Pursuant to the said letter, on 01-03-2024, the Headmaster of the school produced the record before the Committee. Then, the school informed the Committee that the entry/document produced by the petitioner before the Committee was

not available to them. No entry in that regard was found in their record. It is also contended that, inadvertently, the Transfer Certificate was issued to the petitioner. However, subsequently, the same was cancelled on 20-02-2024. The petitioner failed to produce any document before the Committee prior to the cut-off date of 13-10-1967. Therefore, the Committee did not forward the documents to the Vigilance Cell. After considering the documents, it was noticed that the Transfer Certificate dated 30-12-2004 produced by the petitioner was bogus. Also, the petitioner failed to produce documentary evidence prior to 1967. Therefore, the petitioner's claim was invalidated by the Committee. Hence, this petition.

5. It further appears that during the pendency of this petition, the petitioner amended the petition, contending that his cousin brother has received the Validity Certificate, which he did not produce before the Committee. The petitioner also wants to file an affidavit before the Committee. Therefore, the petitioner urged to remand the matter to the Committee for fresh consideration. He also prayed to direct the Committee to decide the matter in a time-bound manner. Accordingly, the prayer clause was also amended.

6. Mr. S.D. Chopde, learned Counsel for the petitioner, has vehemently contended that the Committee failed to conduct the

vigilance cell enquiry to ascertain the real facts. Therefore, on this ground alone, the petitioner is entitled to seek remand of the matter. He further argued that his cousin brother and niece have Validity Certificates. Those certificates were not produced before the Committee; however, the petitioner wants to produce them. Hence, he urged to remand the matter to the Committee for fresh consideration.

7. As against this, Mr. J.Y. Ghurde, learned Assistant Government Pleader, has strenuously argued that the petitioner failed to produce the documents prior to 1967 before the Committee to substantiate his claim. The school leaving certificate of the father of the petitioner was found bogus. Thus, the petitioner failed to discharge the burden casts under Section 8 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. Hence, he has prayed for the dismissal of the petition.

8. We have considered the rival submissions and perused the impugned order and record.

9. At the outset, it appears that the Committee did not conduct a vigilance cell inquiry while determining the petitioner's

claim. So also, the Committee has not given an opportunity to the petitioner to explain the School Leaving Certificate of his father which was allegedly obtained by practicing fraud. It was incumbent on the part of the Committee to give the petitioner an opportunity to explain the said controversial document. It is pertinent to note that during the argument, the learned Counsel for the petitioner has drawn our attention to the Validity Certificates issued in favour of the petitioner's cousin brother and niece based on which and having regard to law laid down in the case of *Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1, and others* reported in *2010 (6) Mh.L.J. 401*; it is claimed that the petitioner is entitled to get the Validity Certificate. However, the same were not produced before the Committee while verifying his claim. Accordingly, he has urged to remand the matter.

10. Considering the above submissions, it is apparent that no vigilance cell inquiry was conducted in the matter. Moreover, the petitioner wants to produce Validity Certificates issued in favour of his blood relatives before the Committee to substantiate his claim. However, he did not produce the same before the Committee as appropriate opportunity of hearing was not offered. As such, he could not get an opportunity to claim the Validity Certificate as per the dictum laid down in the case of *Apoorva Vinay Nichale (supra)*, to which

the petitioner is entitled. Also, the Committee has not given the petitioner an opportunity to explain the document, which, according to them, was obtained by fraud.

11. Thus, in our opinion, to give opportunity to the petitioner, it would be appropriate to remit the matter back to the Committee for reconsideration with direction to conduct a thorough enquiry into the matter by offering an opportunity to the petitioner to substantiate his claim by explaining the adverse material discovered by them. In this background, we deem it appropriate to quash and set aside the impugned order and remit the matter to the Committee for consideration afresh. As such, we pass the following order.

- (i) The impugned order dated 25-04-2024 passed by respondent No.1-Committee is hereby quashed and set aside. The matter has been remitted back to respondent No.1-Committee for consideration afresh, in accordance with the law.
- (ii) The petitioner is directed to appear before the respondent No.-1-Committee on 23-09-2024.
- (iii) Respondent no.1-Committee is directed to decide the matter as early as possible and, in any case, within a period of four months from the date of appearance of the petitioner before it.

12. Rule is made absolute in the above terms. No order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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