



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

WRIT PETITION NO.3738 OF 2021

Roshan s/o Ashokrao Nimje, aged about
29 yrs, Occupation Student, R/Shivaji
Nagar Warud, Tq. Warud, Dist.
Amravati.

... PETITIONER

VERSUS

The Schedule Tribe Caste Certificate
Scrutiny Committee, through its
Member Secretary and Deputy
Director, Sanna Building, Opp. Govt.
Rest House, Camp Amravati – 444
601

... RESPONDENT

Shri Ashwin Deshpande, Advocate for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for the State.

CORAM : VINAY JOSHI AND SANJAY A. DESHMUKH, JJ.
DATED : 31.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the

parties.

3. Petitioner Roshan claims to be belonging to Halbi Scheduled Tribe, which is an entry at Serial No.19 in Constitution (Scheduled Tribes) Order, 1950. The petitioner's caste claim was forwarded to the respondent – Caste Scrutiny Committee for verification and issuance of validity certificate. The petitioner has produced various documents and prior validities to substantiate his caste claim. Vigilance Enquiry was conducted for verification of documents and collection of necessary information. Being dissatisfied with the documents, the Caste Scrutiny Committee vide impugned order dated 22.07.2021 has declined to validate the petitioner's caste claim.

4. The petitioner has tendered pre-constitutional documents showing the entry of Halbi caste. It is the petitioner's contention that though the adverse documents have been collected by the Vigilance, they does not belong to his family. Particularly, the petitioner laid emphasis on two prior validities issued in the family by virtue of orders of this Court to his cousins namely Yogita Nimje and Jayant Nimje. The Caste Scrutiny Committee has detailed the documents procured by Vigilance showing adverse 'Koshti' entry. The Caste Scrutiny Committee

has also expressed that though prior validities have been tendered, however the entries of 'Koshti' caste were suppressed while obtaining the earlier validities and thus, they cannot be considered. Besides that, it is held that, the petitioner failed in the affinity test.

5. The Caste Scrutiny Committee has prepared genealogical tree, which is at page no.45 of the petition. The said genealogy shows the common ancestral Ganpat having three issues i.e. Ramrao, Govindrao and daughter Mankarna. Ramrao is the grandfather of the petitioner Roshan. The genealogy discloses that Jayant and Yogita are grandsons of Govindrao, who was the brother of petitioner's grandfather Ramrao. In that regard, petitioner relied on the order of this Court passed in writ petition No.7946 of 2018 dated 26.02.2020 whereby the claim of petitioner's cousin Yogita was validated. Likewise, the petitioner relied on the order of this Court dated 04.03.2020 passed in Writ Petition No.3947 of 2018, in which the claim of Jayant was validated on the basis of earlier validity issued to family member namely Yogita. On the strength of these prior validities in the family, it has been canvassed that, in view of the decision in case of ***Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny and ors. 2010(6) Mh.L.J. 401***, the petitioner is also entitled for issuance of validity.

6. We have gone through the impugned order, which does not dispute the relationship of Jayant and Yogita with petitioner Roshan. The Caste Scrutiny Committee has sidelined the prior validities by contending that those validities were obtained by suppressing adverse 'Koshti' entries. Some of the adverse documents collected by the Vigilance were considered by this Court while validating the claim of Yogita. Paragraph 5 of the said decision (in Writ Petition No.7946/2018) reads as below :

"5. It is brought to our notice that there was adverse entry dated 15.08.1946 showing that petitioner's grandfather Govind had begotten female child namely Kamla. On perusal of the genealogical tree, it reveals that Govind does not have any female child namely Kamla. Then there is one other entry dated 30.03.1937 showing that Govind has begotten a male issue. In this regard, petitioner has produced documents to show that birth year of the children of Govind are of the year 1939, 1940, 1944 and 1948. As such, there was no issue born to Govind in the year 1937 as well as nor the genealogical trees supports to said entry. There was one another adverse entry dated 21.04.1921 showing that Ganpat had begotten male issue. The petitioner has produced document to show that two sons of Ganpat namely Govind and Ramrao born in

the year 1915 and 1926. Thus, petitioner by denying these adverse entries, had offered sufficient explanation before us which was also submitted by petitioner in Vigilance Cell inquiry. Pertinent to note that petitioner has not merely denied the adverse entries but adduced documentary evidence to disprove those entries. Though petitioner has furnished said explanation, during Vigilance inquiry no further satisfactory Material has been collected to substantiate the stand to fortify the adverse entries.”

7. In the light of those observations, we have undertaken an exercise to evaluate the documents tendered by the petitioner as well as collected by the Vigilance during the enquiry. The petitioner has relied on the pre-constitutional school leaving certificate of his grandfather Ramrao dated 01.02.1926 bearing entry of Halbi caste. The Caste Scrutiny Committee has declined to consider said pre-constitutional document on the premise that, during inspection the original record was found to be deteriorated. The said cannot be reason for out rightly rejecting the old document of the year 1926. The Vigilance has procured Dakhal Kharij register extract of petitioner's cousin grandfather Govind dated 25.04.1927 as well as school transfer certificate of Govind dated 16.04.1929, which bears entry of Halbi

caste. Rather the petitioner's claim is based on these pre-constitutional entries of which genuineness has not been disputed.

8. It reveals from the impugned order that the Caste Scrutiny Committee has considered the documents bearing adverse entry of Koshti caste. The petitioner has explained that these documents does not belong to his family members. The document at serial no.1 of the year 1919 is a birth extract of Ganpat shows caste 'Koshti'. The learned Counsel for the petitioner would submit that the said extract does not bear father's name of Ganpat as the document is silent to that effect. Moreover, it is submitted that as per the School Transfer Certificate (page 85) son of Ganpat born on 01.02.1926 and another son namely Govind born on 05.09.1915 as per the School Transfer Certificate (page 87). In this regard, it is submitted that, the adverse document at serial no.1 of the year 1919 showing that Ganpat had one son in the year 1919 which does not matches since Ganpat had only two sons and therefore, the said extract of Ganpat does not relate to the petitioner's family.

9. Document at serial no.2 of the year 1919 is the birth extract of son to Baliram showing entry of 'Koshti' caste. The Genealogy prepared by the Vigilance as well as submitted by the parties does not

refer Baliram as a family member. The Vigilance has collected document at serial no.3 i.e. birth extract of the son to Raghoji of the year 1920, however the genealogical tree does not disclose the name of Raghoji.

10. Document at serial no.7 of the year 1936 is of the maternal side of Bhagabudhi therefore, it cannot be considered. The document at serial no.8 of the year 1937 is a birth extract of son of Govinda showing Koshti entry. However, the said document (page 173) does not disclose the father's name of Govinda as Ganpat, and thus, it is unsafe to link with Govinda. Document at serial no.9 is the birth record showing that Govinda has begotten son namely Gopala in the year 1940. However Govinda does not have a son namely Gopala as per the genealogical tree. Document at serial no.11 is a birth record of one male child Maroti born to Omkar, however punjaji does not have a son namely Omkar as per the genealogical tree. Documents at serial no.12 is a birth extract of the year 1946 showing that Govinda Ganpat had a daughter namely Kamla. However, as per the genealogical tree Govinda had no daughter namely Kamla. Document at serial no.14 is an admission book extract of Yashwant of the year 1947 showing entry of 'Koshti' caste. Document at serial no.15 is a birth record of one male child Pralhad born to Pundlik. The genealogical tree does not show that Pundlik had

a son namely Pralhad. By and large, these discrepancies are material, which supports the petitioner's stand that these persons does not belong to his family. Moreover, most of the adverse documents have been considered by this Court while deciding the case of Yogita of which the relevant portion has been extracted above.

11. The petitioner has produced one another validity certificate of Mohit (son of Jayant), which was issued during pendency of this petition. It reveals that there are three validities in the family. While considering the case of Yogita, all these documents have been scanned and the adverse entries were negated. Moreover, the above exercise shows that there is no certainty about the adverse entries to be belonging to petitioners' family.

12. The learned Counsel for the petitioner relied on the decision of the Supreme Court in case of ***Mah. Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors. 2023 SCC OnLine SC 326***, to contend that the prior validities should be weighed if the relationship is established and the earlier validities have been issued by following due procedure. In case at hand neither the relationship was denied nor it is the contention that those validities were issued without vigilance inquiry.

13. For these reasons, we are not inclined to accede the reasoning assigned by the Caste Scrutiny Committee for declining the petitioner's caste claim. In substance, the petitioner has produced pre-constitutional entries of Halbi caste dated 01.02.1926, 25.04.1927 and 16.04.1929. As against this several documents of Koshti caste were procured by the Caste Scrutiny Committee, but they does not establish the nexus with the petitioners' family. Moreover, three prior validities have been issued in the family, and thus, in view of the decision of this Court in case of *Apoorva Nichale vs. Divisional Caste Certificate Scrutiny and ors (supra)*, the petitioner Roshan is entitled for issuance of the validity.

14. In the circumstances, we hold that the petitioner has established caste claim "Halbi" Scheduled Tribe, hence we proceed to pass the following order :

- (a) The Writ Petition is allowed and disposed of.
- (b) We hereby quashed and set aside the order dated 22.07.2021 passed by the respondent no.1-Scrutiny committee.
- (c) It is declared that the petitioner belongs to "Halbi" Scheduled Tribe, which has entry No.19 in the list

of Constitution (Scheduled Tribes) Order, 1950. The Respondent Scrutiny Committee shall issue validity certificate to the petitioner within a period of four weeks from the date of receipt of copy of this order.

The Writ Petition stands disposed of. Rule is made absolute. No costs.

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)

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