



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

WRIT PETITION NO. 6003 OF 2018

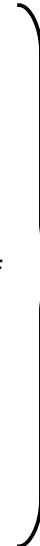
Shri Aman S/o Devanand Raut
Age – 19 years, Occ. Student,
R/o Swami Vivekanand Nagar,
Kanhana, Taluka Parseoni,
Dist.Nagpur



.. Petitioner

Versus

1. State of Maharashtra,
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Extension, Madam Cama
Road, Mumbai – 400032
2. Government of Polytechnic, Nagpur
(An autonomous Institute of
Government of Maharashtra)
through its Principal, Mangalwari
Bazar Road, Sadar, Nagpur – 440001
3. The Schedule Tribe Caste Certificate
Scrutiny Committee, through its
Member Secretary, Nagpur



.. Respondents

Mr. Yashraj Kinkhede, Advocate for petitioner.
Mr. M.K.Pathan, Assistant Government Pleader
for respondent No.1.

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

DATED : MARCH 22, 2024

ORAL JUDGMENT (Per : N.W.SAMBRE, J.)

Rule. Rule made returnable forthwith. Heard finally
by the consent of the learned counsel appearing for the parties.

(2) On 16/12/2016, a caste certificate was issued to the petitioner of belonging to Scheduled Tribe (Kol) which was forwarded for verification to the respondent No.3 Committee by the Educational Institution where the petitioner was admitted. Vide order impugned dated 06/08/2018, the tribe claim of the petitioner came to be rejected as such, this petition.

(3) The submissions of Mr.Yashraj Kinkhede, learned counsel for the petitioner are that the order impugned is not sustainable for the reason that the petitioner has produced on record the documents of 1955 and subsequent thereto in relation to great grandfather, grandfather and father depicting caste Kol. According to him, the word Pardeshi noticed in the school record of the grandfather of the petitioner subsequent to the entry of caste Kol cannot lead to inference that the petitioner does not belong to Scheduled Tribe Kol community.

(4) His further contention is that since there is consistent entries of Kol, but for the singular entry (in the school record of the grandfather) of Kol Pardeshi, an inference cannot be drawn that the petitioner does not belong to Kol Scheduled Tribe.

(5) He would invite our attention to the Gazette

Notification of the year 1976, so as to demonstrate that the Kol was identified as Scheduled Tribe in the State of Maharashtra in 1976 and not in 1949, which incorrectly observed by the respondent Committee. According to him since the entry Kol in relation to the grandfather of the petitioner is prior to the said notification, the said evidence has to be accepted having more probative value. He would further claim that solely on the ground of non-satisfaction of the affinity test, the claim of the petitioner cannot be rejected.

(6) As against above, Mr.Pathan, learned Assistant Government Pleader would invite our attention to the school leaving certificate dated 09/07/2018 at Annexure – 9 issued in favour of the grandfather of the petitioner wherein caste is recorded as Kol (Pardeshi). He would claim that it is not open for the Committee or this Court to interpret the said entry as same has to be read as it is.

(7) According to him, even if the petitioner has claimed that the tribe Kol was recognized as Scheduled Tribe in the State of Maharashtra in 1976, however, the petitioner owes an explanation as to how entry Kol Pardeshi was subsequently entered as Kol in the various school records of father and that of petitioner also.

(8) In the aforesaid background his contention is apart

from the failure of the petitioner to establish from the documentary evidence that he belongs to Kol Scheduled Tribe, the petitioner has failed to satisfy the affinity test. That being so, he has sought dismissal of the petition.

(9) We have appreciated the submissions.

(10) It can be inferred from the copy of the Gazette Notification produced by the learned counsel for the petitioner that Tribe Kol is recognized as Scheduled Tribe in the State of Maharashtra in 1976 and not in 1949. That being so, the reasoning which is formed to be the basis for rejection of the claim of the petitioner is contrary to the very Gazette Notification.

(11) The fact remains that the petitioner has produced on record the oldest entry of 26/03/1949 in relation to his grandfather Kisan as reflected in school leaving certificate which was issued on 09/07/2018. The entry Kol was taken in the school record of the grandfather of the petitioner in the year 1949, when he was granted admission in the school. The entry of 1949 will have more presumptive and evidentiary value as the Kol was identified as Scheduled Tribe in 1976. As far as the word Pardeshi suffix to the tribe Kol as found in the school record of the grandfather of the petitioner, there is no

independent entry of caste or tribe 'Pardeshi' in any of the orders including that of Scheduled Caste, Scheduled Tribe, Other Backward Class, Special Backward Class etc. At least no such entry is brought to our notice.

(12) The fact remains that in the caste column Kol entry is recorded and same is consistently followed in the subsequent record in relation to grandfather, father and petitioner. In this background, the evidence of 1949 produced on record ought not to have been discarded by the Committee on the ground that (a) it contains suffix Pardeshi and (b) the entry of Kol is recognized in 1949 which is factually incorrect.

(13) As there is a consistent entry of Kol tribe since 1949 onwards in the school and other records in relation to blood relations of the petitioner, it has to be inferred that the petitioner has established that there exist such entries prior to the tribe Kol being recognized as Scheduled Tribe in the State of Maharashtra. As such, the said documents ought to have been accepted by the Committee in light of Section 8 of the Act.

(14) Apart from above, it is required to be noted that the failure of the petitioner to clear the affinity test which is found to be the

basis for rejection of the prayer of the petitioner for issuance of validity cannot be sustained particularly, when the documents before 1950 demonstrate that petitioner belongs to Kol caste and the affinity test cannot be termed as litmus test in the matter of deciding the validity claim. In this background it has to be held that the petitioner is able to demonstrate that he belongs to Kol Scheduled Tribe from the available record.

(15) That being so, we quashed and set aside the impugned order dated 06/08/2018, passed by the respondent No.3 Committee. We direct the respondent No.3 Committee to issue validity certificate in favour of the petitioner within a period of four weeks from the date of production of this order.

(16) Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

KOLHE