



15-9-WP-8249-22

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

WRIT PETITION NO.8249 OF 2022

Prajakta Vasantappa Ijapure
Age-19, Occu: Education
R/o Satargaon, Tq. Tiosa,
Dist. Amravati

... Petitioner

-vs-

District Caste Certificate Scrutiny Committee,
Amravati, Tq. And Dist. Amravati

... Respondent

Shri N. A. Gawande, Advocate for petitioner.
Shri S. M. Ukey, Additional Government Pleader for respondent.

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

DATE : MARCH 27, 2024.

Oral Judgment : (Per : Nitin W. Sambre, J.)

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

2. The petitioner holds a caste certificate dated 08/07/2015 certifying that she belongs to 'Gawali' (N.T) (B) category as certified by the Sub-Divisional Officer, Tiosa, Bhatkuli. The said certificate was subjected to verification and vide impugned order dated 10/11/2022 the caste-claim of the petitioner came to be rejected as such this petition.

3. Shri N. A. Gawande, learned counsel for the petitioner submitted that the petitioner has submitted the documents in relation to her ancestors particularly of Manya Laxman Gawali to whom a son

was born on 25/05/1957 who happened to be the great grandfather of the petitioner. It is claimed that caste in the said document is mentioned as 'Gawali'. It is further claimed that even in other documents in relation to father and grandfather of the petitioner, caste is mentioned as 'Li. Gawali'. Same cannot be interpreted to mean that the petitioner belongs to 'Lingayat Gawali' and not 'Gawali' based on the statement of the petitioner recorded by the Committee. It is the contention of Shri N. A. Gawande, learned counsel for the petitioner that there does not exist caste 'Lingayat Gawali' in the existing social structure in State of Maharashtra.

4. As against above, Shri S. M. Ukey, learned Additional Government Pleader for the respondent would urge that apart from the adverse entries of 'Li. Gawali', voluntary statement given by the petitioner that she belongs to 'Lingayat Gawali', the entry in relation to grandfather and father as that of 'Li Gawali' and the application of affinity test has prompted the Committee to reach to a conclusion that the petitioner does not belong to 'Gawali' (N.T) (B) category.

5. We have appreciated the rival contentions of the parties.

When confronted, counsel for both the parties are unable to demonstrate before us that there exists caste by name 'Lingayat Gawali' or 'Li. Gawali' in any statute book or in the existing social structure based on the above.

6. The fact remains that the document which was produced by the petitioner before the Committee dated 25/05/1957 in relation to great grandfather Manyax Laxman Gawali depicts caste 'Gawali'. Mention of caste entry as 'Li. Gawali' or the statement of the petitioner that she

belongs to 'Lingayat Gawali' community or caste, cannot be said to mean that the petitioner does not belong to 'Gawali' caste and as such not entitled to benefit of validity particularly when it can be inferred that caste 'Lingayat Gawali' or 'Li. Gawali' does not exist in statute book in State of Maharashtra.

7. As such from the documentary evidence which contains more than 50 years old entries, it can be inferred that the petitioner is able to demonstrate that she belongs to 'Gawali' caste and as such she is entitled for issuance of validity as that of belonging to 'Gawali' (N.T) (B).

8. Apart from above the respondent has applied affinity test to the petitioner. Since 1957 onwards the documentary evidence depicts that the petitioner belongs to 'Gawali' caste. It cannot be said that based on affinity test the caste-claim of the petitioner can be rejected as in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors.* **2023 SCC Online SC 326**, the Honourable Apex Court has held that the affinity test cannot be said to be litmus test for the purpose of deciding caste-claim.

9. In this backdrop we are of the view that the impugned order dated 10/11/2022 invalidating the caste-claim of the petitioner that of belonging to 'Gawali' N.T (B) is not sustainable and hence the same is quashed and set aside.

10. It is declared that the petitioner belongs to 'Gawali' N.T. (B) category. The respondent-Committee is directed to issue validity certificate to the petitioner as that of belonging to 'Gawali' N.T. (B)

within a period of four weeks from the date of production of this order before it.

11. Rule is made absolute in aforesaid terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)