



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

WRIT PETITION NO. 470 OF 2024

Vishal Chandrasing Rabade
Age : 20 years, Occ : Student
R/o C/o Chandrasing Rabade, Taroda
Buldhana, Maharashtra – 443103

} .. **Petitioner**

Versus

1. The State of Maharashtra
through its secretary,
Department of Tribal Development
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Amravati,
through its Vice-Chairman,
Deshmukh Building, Morshi Road,
Irwin Chowk, District: Amravati
 3. Scheduled Caste Certificate Enquiry
Committee, Amravati
- } .. **Respondents**

Mr.Uttam Chakrawarty, Advocate h/f. Ms.Deepali Sapkal,
Advocate for petitioner.
Mr.D.P.Thakre, Addl. G.P. for respondents.

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

DATED : **June 14, 2024**

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

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

(2) The petitioner being dissatisfied with the order dated 15/09/2021 passed by respondent No.2 – The Scheduled Tribe Certificate Scrutiny Committee, Amravati (for short '**the Scrutiny Committee**') thereby rejected the claim of the petitioner for issuance of a Validity Certificate as that of belonging to '*Naikda*', Scheduled Tribe.

(3) The facts in a nutshell are as under:-

On 15/12/2017, the petitioner obtained the caste certificate that he belongs to '*Naikda*', a Scheduled Tribe, from the Sub Divisional Officer, Khamgaon. In 2019, the petitioner was admitted to the Bachelor of Science Course at Babasaheb Utangale, Junior College of Science, Akola. Through college, he forwarded his caste certificate and other documents for verification to respondent No.2 Scrutiny Committee. The same remained pending till January 2021. In the meantime, he was admitted to the Bachelor of Engineering (B.E.) Course in K.K.Engineering College, Nashik against '*Naikda*', Scheduled Tribe category. Therefore, he needed the validity certificate to submit to the Engineering College.

(4) The respondent No.2 Scrutiny Committee did not decide his caste claim until January 2021. Therefore, on 28/01/2021, the petitioner preferred Writ Petition No.573/2021 before this Court, seeking directions for expediting the disposal of the caste claim. On

03/02/2021, this Court passed the order and directed the Scrutiny Committee to decide the petitioner's caste claim within six months from the date of the order.

(5) The respondent No.2 Scrutiny Committee was dissatisfied with the documents produced by the petitioner and the same were forwarded to the Vigilance Cell for inquiry. Accordingly, Vigilance Cell conducted the inquiry and submitted its report to respondent No.2 Scrutiny Committee on 02/12/2020. During the inquiry, the Vigilance Cell found adverse material against the claim of the petitioner; therefore, vide show-cause notice dated 15/12/2020, called upon the petitioner's explanation of the same. The petitioner has submitted his explanation.

(6) After being dissatisfied with the explanation and documents produced by the petitioner, the respondent No.2 Scrutiny Committee has invalidated the petitioner's claim. Also, the caste certificate issued by the Sub Divisional Officer was cancelled and confiscated. As such, the petitioner has preferred this writ petition.

(7) Learned counsel for the petitioner vehemently contended that the petitioner, in support of his claim, has produced as many as four documents wherein his caste is mentioned as '*Naikda*', Scheduled Tribe. He further submitted documents of the years 1943,

1953, and 1984. The document of 1943 is a pre-independent era document and has more probative value. Thus, the petitioner has substantiated that he belongs to the '*Naikda*' Scheduled Tribe category. However, the Committee has not considered the said document properly and observed that the said documents were tampered with. Hence, the observations of the Vigilance Cell and findings given by the Scrutiny Committee cannot be sustained as the documents are genuine.

(8) He further argued that respondent No.2 Scrutiny Committee failed to appreciate other documents submitted by the petitioner and erred in holding that the petitioner could not demonstrate that he belongs to '*Naikda*', Scheduled Tribe.

(9) Per contra, learned Additional Government Pleader for respondents strenuously argued that during the Vigilance Cell inquiry, the Vigilance Cell found five documents pertaining to ancestors of the petitioner from 1923 to 1936, wherein the caste was shown as Banjara/Banjari. These documents pertain to the great-great-grandfather of the petitioner.

(10) *Secondly*, he canvassed that during the inquiry, it was noticed that the documents of 1943 and 1953 were tampered with. Therefore, these documents are not helpful for the petitioner in support

of his claim.

(11) Lastly, he submitted that the Scrutiny Committee, after considering the documents on record and the Vigilance Cell report, has rightly rejected the petitioner's claim. Hence, no interference is required.

(12) We have appreciated the rival contentions of the parties and perused the record as well as the report of the Vigilance Cell.

(13) It appears that during the Vigilance Cell inquiry, five documents from 1923 to 1936 were found to have entries of his great-great-grandfather belonging to the Banjara/Banjari caste. Likewise, the Scrutiny Committee has noticed that the documents dated 23/03/1943 and 09/07/1953 on which the petitioner relies, were tampered with. It was also observed that the records of 1943 and 1953 denote that they struck down the caste 'Banjari' and instead wrote the caste '*Naikda*' on it. Therefore, he was called upon to explain the same. However, the petitioner failed to explain, and hence, the Scrutiny Committee has held that the documents from 1923 to 1936 show that the applicant belongs to the Banjara caste and not to the '*Naikda*', Scheduled Tribe.

(14) It is a settled principle that a person gets his caste

at birth. The pre-independent era entries in relation to the great-great-grandfather of the petitioner, namely, Amarsing and Harsing, whereby the entry Banjara/Banjari is recorded. The petitioner owes an explanation for the same, which the petitioner has failed to provide. Section 8 of the Act casts a burden upon the petitioner to prove that the aforesaid entries are incorrect or that he belongs to the '*Naikda*', Scheduled Tribe. The fact remains that the petitioner has failed to discharge the said burden.

(15) As such, from the available documentary evidence, it cannot be said that the petitioner has discharged his burden as provided under Section 8 of the Act, thereby proving that he belongs to '*Naikda*', a Scheduled Tribe. Moreover, it is pertinent to note that the petitioner neither denied a relationship with Amarsing and Harsing nor denied the entries in the documents from 1923 to 1936 are incorrect. *Besides*, no validity certificate has been issued in favour of the petitioner's relatives.

(16) As far as the satisfaction of the affinity test is concerned, the information regarding traits, characteristics, deities, surnames, festivals, traditions, ancestral occupation, customs, songs, and folk dances of the applicant's family does not resemble those of '*Naikda*' Scheduled Tribe. Thus, the affinity is not proved towards '*Naikda*', Scheduled Tribe as claimed.

(17) Thus, to sum up the above discussion, there is no reason to disbelieve the documents found during the Vigilance Cell inquiry, as well as the remarks of the Vigilance Cell about the tampering with the documents by the petitioner. In this background, the petitioner, in our opinion, cannot be said to belong to '*Naikda*', a Scheduled Tribe. Rather, the Committee, in our opinion, is justified in recording the finding that the petitioner has failed to demonstrate that he belongs to the '*Naikda*' Scheduled Tribe.

(18) As such, there is no substance in the petitioner's claim that he belongs to the '*Naikda*'- Scheduled Tribe. The petition, being bereft of any merit, is hereby dismissed. No costs.

Rule is discharged.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

KOLHE