



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

WRIT PETITION NO. 926 of 2024

Akul s/o Chandrashekhar Tikkas

vs.

The Schedule Tribe Caste Certificate Scrutiny Committee, through its Member Secretary
and Deputy Director, Amravati.

.....

Shri Ashwin Deshpande, Advocate for petitioner.

Shri A.M.Ghogare, Assistant Government Pleader for respondent.

.....

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

DATE :- 12th FEBRUARY, 2024.

P. C.

Heard.

2. The challenge in the petition is to the order dated 25.07.2023 passed by the respondent -Scrutiny Committee. The respondent-Committee vide aforesaid order has negated/rejected the claim for issuance of a validity in favour of the petitioner as that of belonging to 'Halbi' Scheduled Tribe based on the caste certificate dated 06.01.2021.

3. The facts necessary for deciding the petition are as under:

(a) After the petitioner obtained the caste certificate on 06.01.2021, the petitioner got admission in the school in Pune, which has referred the caste claim of the petitioner for verification to the respondent-Committee vide communication dated 09.02.2022. The Committee, after considering the documents submitted by the petitioner, noted that they are not in agreement with the claim put-forth by the petitioner. As a sequel of which pursuant to Rule 12 of the Maharashtra Scheduled Tribes (Regulation of Issuance and verification of) Certificate Rules, 2003 (for short "the ST Rules") referred the claim to the Vigilance Cell.

(b) The Vigilance Cell after conducting home and field enquiry submitted a report dated 13.06.2023 thereby collecting the evidence depicting 'Koshti' entries of pre-independence era. Based on the aforesaid adverse material, the Committee called the explanation of the petitioner to the same. After

having found the explanation of the petitioner to be not satisfactory, rejected the claim of the petitioner and cancelled the certificate dated 06.01.2021 issued in favour of the petitioner. As such, this petition.

4. The counsel for the petitioner Mr. Deshpande would urge that in support of the claim put-forth by the petitioner, along with the proposal, he has submitted in all ten documents. According to him, consistent entries of 'Halbi' in various records of the blood relations of the petitioner can be noticed. According to him, Vasant Devchand Tikkas, grandfather of the petitioner has left the school in 1955 in which record, the entry is recorded as 'Halbi'. According to him, the great grandfather Devchand has left the school on 25.04.1927 as such pre-independence entry of 'Halbi' during such period can be inferred. In addition, he would rely on the entry of 'Halbi' in the record of the great-great grandfather of the petitioner of 27.01.1929 wherein it is claimed that a son was born to Balaji on the said date. As such, it is the contention of Mr. Deshpande that there is voluminous evidence on record particularly of pre-independence era with entries which demonstrates that the petitioner belongs to 'Halbi' Scheduled Tribe.

5. It is the further contention of the petitioner that in the explanation submitted by the petitioner to the Vigilance Cell report dated 13.06.2023 the petitioner in categorical terms has denied the relationship with Bhagwan s/o Balaji and Nogo s/o Balaji. In such an eventuality, the contention of the counsel for the petitioner is, the respondent Committee is duty bound in law to accept pre-independence era documents and grant validity in favour of the petitioner.

6. Mr. Deshpande would urge that the Committee is equally required to be sensitive to the satisfaction of affinity test as according to him, the information furnished by the petitioner in categorical terms establishes affinity with that of 'Halbi' Scheduled Tribe. As such, he would claim that apart from the pre-independence era document of 1927, the petitioner has also established affinity with 'Halbi' Scheduled Tribe. That being so, the respondent-Committee ought to have granted the validity in favour of the

petitioner.

7. His other contention is, a declaration is already recorded by the judgment of Civil Court in Regular Civil Suit No. 618 of 1996 (*Pravin Vasantrao Tikkas vs. The State of Maharashtra and others*) wherein Pravin s/o Vasantrao referred above has been declared to be 'Halbi' Scheduled Tribe. So as to substantiate the aforesaid contention, he has drawn support from the judgment in the aforesaid case on 20.11.1999 by 2nd Joint Civil Judge (Sr. Dn.), Amravati, which is further confirmed in Regular Civil Appeal No. 5 of 2000.

8. The further contentions of Mr. Deshpande are that the stray entries of 'Koshti' ought not to have relied upon by the Committee for negating the claim of the petitioner, particularly when such entries are contrary to the initial entries of 'Halbi'. So as to substantiate the said contention, he has drawn support from the decision of the Division Bench of this Court in the matter of *Priya Pravin Parate vs. Scheduled Tribes Caste Certificates Scrutiny Committee, Nagpur and others* [2013(1) *Mh.L.J.*180]. In addition, his contentions are that the Division Bench of this Court in **Writ Petition No.5758 of 2022** [*Mr. Nilesh Rangrao Narnaware and anr. vs. Vice Chairman and Member Secretary, the Scheduled Tribe Certificate Scrutiny Committee, Amravati and others*] decided on 18.01.2024 has written the entry of Mani to mean 'Mana' and has granted validity in favour the petitioners therein. He would claim that same analogy can be applied to the facts of the present case as the petitioner's stray entries 'Koshti' can be considered to be that of Halbi Koshti and not independent 'Koshti'. By drawing support from the judgment of the Hon'ble Apex Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others* [2023 *SCC Online SC 326*] particularly paragraphs 19, 20 and 38 which read as under:

"19. Sub-rule (2) of Rule 12 clearly provides that only if the Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant, it shall forward the application to the Vigilance Cell for conducting the school, home and other enquiry. Therefore, in every case, as a matter

of routine, the Scrutiny Committee cannot mechanically forward the application to Vigilance Cell for conducting an enquiry. When sub-rule (2) of Rule 12 contemplates that only if the Scrutiny Committee is not satisfied with the documents produced by the applicant that the case should be referred to Vigilance Cell, it follows that the Scrutiny Committee is required to pass an order recording brief reasons why it is not satisfied with the documents produced by the applicant. Before referring the case to the Vigilance Cell, application of mind to the material produced by the applicant is required and therefore, the application of mind must be reflected in the order sheets of the Scrutiny Committee.

20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to Vigilance Cell. One of the tests is as laid down in the case of Kumari Madhuri Patil. It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all.

38. Thus, to conclude, we hold that:

(a) Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.

(b) For the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim; and

(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”

he would claim that the Committee before referring the matter to the Vigilance Cell ought to have recorded the points of disagreement which has

prevailed so as to make a reference to Vigilance Cell. According to him, since the Committee has not recorded any satisfaction to that effect, the order impugned is liable to be quashed and set aside.

9. Mr. Ghogare, learned Assistant Government Pleader appearing for the respondent-Committee would urge that the petitioner has suppressed the relationship of such blood relations where the entries were found to be adverse to the interest of the petitioner. The learned Assistant Government Pleader from the impugned order would claim that the family tree which was furnished by the petitioner and his father in clear terms demonstrates that the petitioner had intention to suppress the relationship not only with Bhagwan and Nago but also tried to misguide the Committee by stating that there are no such relations. Mr. Ghogare would invite our attention to the explanation tendered by the petitioner to the Vigilance Cell report on 04.07.2023. He would claim that the petitioner has simplicitor stated in the explanation that he is not in agreement with what has been stated in the Vigilance Cell. However, if the material in the Vigilance Cell are tested in the light of the explanation tendered by the petitioner, it has to be inferred that the petitioner has failed to discharge the burden as provided or contemplated under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000 (for short, the Act of 2000). As such, he would claim that the petition is liable to be dismissed.

10. We have considered the rival claims put-forth in the petition.

11. The impugned order came to be passed by the respondent-Committee on 25.07.2023 pursuant to a reference made to that effect by the Principal of the Public School in which the petitioner got admission against a seat reserved for Scheduled Tribe category. The petitioner in support of his claim has relied on the caste certificate dated 06.01.2021 issued by the Sub-Divisional Officer, Achalpur, District Amravati certifying that he belongs to Halbi -Scheduled Tribe.

12. The petitioner produced two sets of documents, one which can be referred to of pre-independence era in relation to a son born to Balaji Halbi on 27.01.1929 who is shown to be great grandfather of the petitioner and the school leaving certificate of Deochand Balaji wherein caste is mentioned as Halbi of 25.04.1927 i.e. great grandfather of the petitioner. The other documents depicting Halbi entries were in relation to the petitioner himself, his father and his grandfather namely; Akul, Chandrashekhar and Vasant respectively.

13. The Committee after having received the claim since was not in agreement, referred the same to the Vigilance Cell. The Vigilance Cell Officer during field enquiry collected two documents which were adverse to the interest of the petitioner. The first one is an extract of school admission register wherein the entry 'Koshti' could be noticed as on 01.09.1927 in relation to Bhagwan Balaji, who is cousin great-grandfather. The birth entry in relation to a son born to another cousin great grandfather - Nago Balaji was also produced on record which goes back to 28.07.1938. Since both these entries were of pre-independence era, the petitioner based on the above was served with a show cause notice on 21.06.2023 along with Police Vigilance Cell report dated 13.06.2023.

14. The petitioner initially remained absent for the hearing, however subsequent thereto, the petitioner since was called upon to explain the aforesaid adverse entries, attended the hearing before the Committee through Vasant Deochand Tikkas i.e. grandfather. In the explanation to the Police Vigilance Cell, the grandfather of the petitioner who appeared on behalf of the petitioner denied the relationship with Bhagwan Balaji and Nago Balaji.

15. Considering the aforesaid denial, the Committee went on assessing the stands taken by the petitioner in the various affidavits including that of one sworn by his father, proceeded to reject the contention of the petitioner and further rejected the claim thereby confiscating the caste certificate. The

Committee recorded a finding that the petitioner has obtained the caste certificate by practising fraud.

16. If we appreciate the contentions of the counsel for the petitioner viz. (a) Entry dated 25.04.1927 in relation to great grandfather - Deochand Balaji depicts Halbi caste; (b) in the explanation to the Vigilance Cell report dated 13.06.2023, the relationship with Bhagwan Balaji and Nago Balaji; (c) the establishment of affinity with Halbi – Scheduled Tribe; (d) the declaration given in R.C.S.No.618 of 1996 by the Court of Civil Judge Senior Division, Amravati on 20.11.1999 and (e) the law laid down by the Apex Court in the matter of *Priya Pravin Parate and Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*, cited supra, we are of the view that the view expressed by the respondent-Committee is in tune with not only the provisions of the Act of 2000 but also Rules framed thereunder.

17. At the outset, this Court is required to be sensitive to the provisions of Section 8 of the Act of 2000. Section 8 contemplates burden of proof. It further provides that in case if an application is made to the competent authority under Section 3 for issuance of a caste certificate in respect of Scheduled Tribe or an enquiry is conducted by the Scrutiny Committee, the burden of proving that the person belongs to such tribe or class shall be on the claimant.

18. As such, it is required to be appreciated whether the petitioner has discharged the burden as contemplated under Section 8 of the Act of 2000 thereby demonstrating that he belongs to Halbi – Scheduled Tribe.

19. No doubt, the petitioner in support of his claim has produced document of 26.07.1955 in relation to his grandfather - Vasant Deochand Tikkas in the form of school leaving certificate, the school leaving certificate of Deochand Balaji i.e. great-grandfather depicting caste Halbi on 25.04.1927, the revenue record in relation to Deochand Balaji of 1975-76 wherein no caste entry is recorded, the birth extract in relation to a son born to Balaji Halbi dated 27.01.1929, who happened to be great grandfather of

the petitioner and such other post-constitutional era documents. The petitioner though has claimed that he has discharged the initial burden by producing aforesaid documents, however it is necessary for him to equally discharge such burden in relation to the adverse material which is produced through the Vigilance Cell by the Committee. The explanation to be tendered or expected from the candidate like the petitioner to the Vigilance Cell cannot be said to be out of the ambit of Section 8 of the Act of 2000. As such, it was expected of the petitioner to explain the adverse entries of 'Koshti' caste recorded on 01.09.1927 and 28.07.1938 i.e. pre-constitutional era entries in relation to Bhagwan Balaji and Nago Balaji which were in the form of school admission register extract and birth extract.

20. Rightly so, the petitioner through his grandfather has tendered an explanation to the Vigilance Cell report dated 13.06.2023 which was served on him on 21.06.2023. The petitioner's grandfather – Mr. Vasant Deochand Tikkas attended the said proceedings and in written explanation dated 04.07.2023 flatly denied the relationship with Bhagwan and Nago sons of Balaji. The aforesaid explanation or stand is reflected as on 04.07.2023.

21. In view of submissions made by Mr. Ghogare, learned Assistant Government Pleader, we have looked into the statement given by the father of the petitioner to the Committee through the Vigilance Cell. The father of the petitioner namely Chandrashekhar has stated in his statement that whether Balaji was having son by name Nago or Bhagwan cannot be mentioned for want of information. Such factual inferences can be drawn from the statement given by the father of the petitioner - Chandrashekhar to the Vigilance Cell, which is produced at page 100 of the petition recorded on 12.04.2023. The said statement depicts family genealogy (family tree of the petitioner) wherein such specific statement is made. Similarly, the father of petitioner-Chandrashekhar has also produced an affidavit which was sworn by him on 01.09.2022 wherein he has only mentioned about Deochand s/o Balaji and not mentioned specifically about Nago and Bhagwan which fact was clarified by him in his statement to the Vigilance Cell recorded on 12.04.2023, discussed above.

22. But for flat denial of the relationship by the grandfather i.e. Vasant, the petitioner cannot be said to have discharged the burden of demonstrating that Nago and Bhagwan, referred above, who were born to Balaji are not related to him. He has not produced any material such as affidavit of the family chronicle or such other senior person from his native place to establish the same. As such the factual finding recorded by the Committee about suppression of the said relationship appears to be quite justified particularly in view of the stand taken by the petitioner's father as reflected in the statement dated 12.04.2023.

23. That being so, the Committee in our opinion is justified in relying on the pre-constitutional era entries such as the extract of school admission register in relation to Bhagwan s/o Balaji of 01.09.1927 and the birth extract in relation to Nago s/o Balaji dated 28.07.1938, wherein caste of the great grandfather (cousin) of the petitioner is reflected as 'Koshti'. Even otherwise it could have been open to the petitioner to demonstrate that these two persons if not are in his blood relations but are from the very same place as that of his great grandfather or grandfather, are related to some third person and not to the petitioner. As such, it has to be inferred that the petitioner has obtained the caste certificate by practising fraud on the authority.

24. For the aforesaid reasons, it has to be held that the order of the Committee on the aforesaid count can be said to be quite justifiable and the contentions of the petitioner to that effect are liable to be rejected. A support can be drawn where the aforesaid observations from the Division Bench judgment of this Court rendered in *Mayuri Manohar Bende vs. State of Maharashtra and others* [2009(6) *Mh. L. J.* 769] particularly in paragraphs 16, 19 to 26.

25. As such, it can be inferred that there are two pre-constitutional era entries which depict caste of the petitioner's blood relations as 'Koshti' and such adverse entries are not at all explained by the petitioner, his father or

his grandfather.

26. This takes us to other two submissions of the counsel for the petitioner, firstly, about the satisfaction of affinity test. The Committee in view of the explanation tendered by the petitioner has gone into the said issue and appreciated the information supplied by the petitioner. The petitioner has stated that his mother tongue, so also tribe language is Marathi, which is not so in Halbi – Scheduled Tribe. The petitioner was unable to mention the occupation adopted by the members of the community. The Committee in detail has considered the entire information submitted by the petitioner so as to adjudicate the satisfaction of the affinity test and has recorded cogent reasons as to the failure of the petitioner to satisfy the affinity also.

27. As far as judgment which is relied on by the petitioner delivered in Regular Civil Suit No. 618 of 1996 in the matter of *Pravin Vasantrao Tikkas vs. The State of Maharashtra and others* by the 2nd Jt. Civil Judge, Senior Division, Amravati, is concerned, the said judgment will be of hardly any assistance to the petitioner. Said *Pravin Vasantrao Tikkas* is claimed to be the real uncle of the petitioner who has obtained a caste certificate from the revenue authorities. Said *Pravin* was served with a notice of initiation of proceedings for cancellation of the said caste certificate and the Court has granted injunction, which reads thus:

“(i) The suit of the plaintiff is hereby partly decreed.

(ii) The impugned notice dated 19.11.96 is declared as illegal and invalid for want of jurisdiction and reasons.

(iii) Unless and until legislated or notified otherwise, the defendants no.1 and 2 are restrained from calling back for cancellation the certificate issued to the plaintiff certifying him as belonged to Scheduled Tribe.”

28. Perusal of the aforesaid operative part of the order passed by the Civil Court in favour of the uncle of the petitioner by no stretch of imagination could be said to be conferring validity in favour of blood relations of the

petitioner. What has been ordered by the Civil Court is the absence of power with the revenue authorities to take up proceedings for cancellation of caste certificate which was issued to the uncle of the petitioner. However, reading of the operative part of the order speaks, in case if a legislation is notified thereby conferring power to cancel the certificate, the same can be done in relation to the plaintiff in the said suit.

29. The caste certificate issued in favour of uncle of the petitioner cannot be considered as evidence in support of claim of the petitioner for issuance of a validity as such certificate is always subject to scrutiny. The uncle of the petitioner after the aforesaid declaration has never approached the Scrutiny Committee for issuance of validity for the obvious reasons known to the said plaintiff or the father of the petitioner or petitioner himself. As such, the said judgment will be of hardly any assistance to the petitioner to canvas that the order of the Committee is not sustainable.

30. As far as the claim put-forth by the petitioner that the judgments in the matter of *Priya Pravin Parate* and *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) are supporting his claim is concerned, we hardly see on facts any material to infer that the ratio laid down in the aforesaid judgments can be made applicable to the facts of the present case so as to infer that an indulgence is required to be shown to order either remand or re-consideration of the impugned order passed by the Committee.

31. For all the aforesaid reasons, we are of the view that no case for causing interference in extra ordinary jurisdiction is made out. The writ petition in our opinion devoid of any merit and the same stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)