



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

WRIT PETITION NO. 938 OF 2024

Ku. Janhavi Rajesh Nimbalkar,
Age 18 yrs, Occ. Student,
R/o. Malipura, Shegaon,
Tahsil Shegaon, District Buldhana

..... **PETITIONER**

...V E R S U S...

Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati Division,
Old by-pass Road, Chaprashipura,
Amravati, through its
Vice Chairman/Jt. Commissioner.

.....**RESPONDENT**

Mr. A.P. Kalmegh, Advocate Advocate for Petitioner.
Mr. A.M. Kadukar, Assistant Government Pleader for respondent.

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

DATE : 29.08.2024

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

Rule. Rule made returnable forthwith and heard finally,
with the consent of the learned Counsel for the parties.

2. The petitioner being aggrieved by the judgment and order dated 30.10.2023 passed by Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati (for short, "*the Committee*") whereby the caste claim of the petitioner that she

belongs to '*Thakur*' Scheduled Tribe has been rejected.

3. The petitioner claims that she belongs to the '*Thakur*' Scheduled Tribe. Accordingly, on 23.05.2022, the Sub Divisional Officer, Khamgaon, issued a caste certificate in her favour. The petitioner is pursuing her studies, and to avail herself of the benefits prescribed for the reserved category, she submitted the caste certificate along with necessary documents to the Committee through her college on 07.10.2022.

4. The Committee was dissatisfied with the documents and forwarded the proposal to the Vigilance Cell for a detailed enquiry. Upon completing the enquiry, the Vigilance Cell submitted its report to the Committee on 09.08.2023. The Committee was discontent with the report submitted by the vigilance cell, so it directed re-investigation to the Cell. The Vigilance Cell re-conducted the enquiry and tendered a subsequent report to the Committee on 23.08.2023. In the re-investigation, the Vigilance Cell found an entry dated 28.10.1937 pertaining to the great-grandfather of the petitioner, namely Govinda Narayan, wherein his caste was recorded as "*Maratha*", and to explain the said adverse entry, a show cause

notice was issued. The petitioner appeared before the committee and denied her relationship with Govinda Narayan in the written explanation. The Committee, on consideration of the Vigilance Cell Report, documents produced and explanation of the petitioner, rejected the caste claim of the petitioner. Hence, this petition.

5. The Committee has opposed the claim, contending that the petitioner failed to explain the entry of 1937 pertaining to her great-grandfather. Also, the Committee opined that the entries for the years 1935 and 1938 do not pertain to the relatives of the petitioner, and, therefore, those documents cannot be considered while deciding the claim of the petitioner. The Committee was of the view that the petitioner has failed to discharge the burden cast under Section 8 of the Maharashtra Scheduled Castes, 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*"),. As such, it urged for the dismissal of the petition.

6. Mr. Kalmegh, the learned Counsel appearing for the petitioner, strenuously argued that the Committee had not

considered the documents of the years 1918, 1935 and 1938 pertaining to the ancestors of the petitioner wherein their caste was recorded as 'Thakur'. So, it is argued that the Committee has erred in relying upon the document of 1937 pertaining to Govinda Narayan. However, the petitioner denied her relationship with Govinda by filing a detailed explanation, and despite this, the Committee has given undue importance to the said document. He further canvassed that Sitaram and Shrikrushna are the same person, but the Committee has not considered this contention. Lastly, it is propounded that the petitioner's grandfather initially resided in the village of Dahigaon, Tq. Nandura and the petitioner produced an extract of the birth register before the Committee in that regard. However, the Committee disbelieved the same on the grounds that the petitioner had not produced supporting documents to show that Govinda was related to her.

7. Learned Counsel for the petitioner has placed reliance on the law laid down in *Writ Petition No. 756/2022 (Gajanan Bansi Ingle Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati and others)*, *Writ Petition 7485/2022 (Shyam Gajanan Bhuyar Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati, Writ Petition No. 6120 of 2018*

(Sanjay s/o Manikrao Ingle Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati and others, Writ Petition 1674/2015 Vs. Committee for Scrutiny and Verification of Tribe Claims, Amravati Division, Amravati and others and Priya Pramod Gajbe Vs. State of Maharashtra and others reported in *2023 OnLine SC 909*.

It is submitted that the Committee failed to consider the oldest document of 1918 and erred in relying on a single entry for the year 1937, which was denied by the petitioner. Therefore, the findings given by the Committee appear contrary to the settled position of law in the above cases. Consequently, he has prayed for quashing and setting aside the impugned order.

8. As against above, Mr. Kadukar, the learned Assistant Government Pleader, vehemently contended that a fire broke out in 1992 at the Tahsil office, Nadura. Hence, the record of the year 1918/1919 was not available. Secondly, the document produced on record reflects one single entry; therefore, the same cannot be relied upon. Thus, the Committee has rightly rejected the petitioner's claim. He further submitted that the petitioner failed to bring on record a single document to show that Shrikrushna and Sitaram are one and the same person. Therefore, the Committee has rightly rejected the said document. Since the petitioner failed to discharge

the burden that lies under Section 8 of the Act, the petitioner is not entitled to caste validity, which is the submission of the learned Counsel.

9. We have appreciated the rival submissions advanced by the parties, perused the record and gone through the citations relied upon.

10. At the outset, it is evident that the petitioner, in support of her claim, has produced eighteen documents. She mainly relied upon the entry dated 04.02.1918 pertaining to her great-grandfather and other entries dated 17.07.1935 and 12.04.1938 related to her grandfather, wherein their caste is recorded as “*Thakur*”. The petitioner stated that her great-great-grandfather initially resided in Dahigaon, Tq. Nandura, and subsequently, in 1922, he shifted to Shegaon; therefore, no other entry was found about her great-great-grandfather. As stated above, it is claimed that Sitaram and Shrikrushna are the same person, but in the official record, his name is shown as Sitaram. Therefore, the petitioner relied upon the documents pertaining to Sitaram. The Committee, while dealing with the documents, has categorically observed that

the petitioner failed to produce any other document in support of her contention that her great-great-grandfather was a resident of Dahigaon. The Committee further observed that in the documents produced on record, Govinda's father's name is not mentioned, and therefore, the Committee has discarded said document.

11. Apart from the above, the other claim that Shrikrushna and Sitaram are one and the same person and that he is her grandfather was discarded since the petitioner failed to produce any documentary evidence to demonstrate it. The Committee has also discussed said entry and found a discrepancy in the date of admission in the school record. Therefore, the Committee disbelieved those documents, observing that they were not helpful to the petitioner while considering her caste claim.

12. *Thus*, it can be noticed that the Committee has rejected the claim on two counts. *First*, the Committee has discarded the document of 1918 pertaining to her great-great-grandfather Govinda, and *second* and *third* are the documents relating to the petitioner's grandfather, Sitaram. To ascertain the said controversy, we have minutely gone through the record. On perusal of the

certified copy of the document (entry) dated 04.02.2018, on which the petitioner has relied, it is in the name of a person named Govinda, and his caste was recorded as '*Thakur*,' resident of Dahigaon, Tq. Nandura. It is pertinent to note that said certified copy of the extract of the birth register of Dahigaon was issued on 17.11.2000, but it has come on record that due to a fire that broke out on 03.07.1992 in the Tahsil Office, Nandura, the entire office record was burnt and therefore, the said office was unable to issue a copy of the entries in the birth register. The fact that the fire broke out is corroborated by the document dated 07.09.2015 produced by Mukesh Nimbalkar, the petitioner's uncle, which he obtained from the Tahsil Office, Nandura. We cannot understand when the office record was burnt on 03.07.1992 then how the petitioner obtained a certified copy of the birth register extract on 17.11.2000. The petitioner gave no explanation in this regard. In fact, the petitioner owes an explanation about it. Except for the bare statement that her great-great-grandfather was a resident of Dahigaon, no documentary evidence is produced in that regard. Furthermore, in the said document, the father's name of Govinda is not mentioned. So also, the petitioner has not mentioned Govinda's father's name in the family tree.

13. *Furthermore*, the petitioner has relied on the entries dated 17.07.1935 and 12.04.1938, which were recorded in the name of one 'Sitaram Shankar' and his caste was recorded as 'Thakur'. However, while recording his statement on 03.01.2023, the petitioner's father has not stated that his father, Shrikrushna, is also known as Sitaram. Likewise, he has not stated Govinda's father's name. The petitioner has not explained the discrepancy between the names of his fathers, Shrikrushna or Sitaram. Had it been the fact that his father, Shrikrushna, was known by two names, then he must have stated so in his statement when he got the opportunity to state so at the first instant. Except for the bare statement, the petitioner failed to produce any document to show that Shrikrushna and Sitaram are one and the same person.

14. In view of the above, in our opinion, the petitioner has failed to demonstrate that the alleged Govinda and Sitaram were her blood relatives or that entries dated 04.02.1918, 17.07.1935 and 12.04.1938 are of her blood relatives. The petitioner has failed to explain the discrepancies in that regard by adducing cogent evidence. Therefore, no illegality is found in the discarding of said documents by the Committee. On the contrary, the entry dated

28.10.1937 on which the Committee has relied is in the name of Govinda Narayan r/o Shegaon, wherein his caste was recorded as “*Maratha*.” The petitioner admitted to her relationship with Govinda but denied the entry. In fact, in the family tree, she has not mentioned Govinda’s father’s name; therefore, the petitioner's denial of the relationship with Govinda has no force.

15. In view of the discussions supra, in our opinion, it would be proper to remand the matter back to the Committee to ascertain the truth in the matter in light of the above observations.

16. As far as the judgments referred to above are concerned, the facts in the case and those in the decisions are different, and, therefore, the observations made in those judgments are not helpful for the petitioner in establishing her case.

17. Thus, to resolve the controversy in the case, we deem it appropriate to remit the matter to the Committee for reconsideration with direction to conduct a thorough enquiry in the light of the above observations by offering an opportunity to the petitioner to substantiate her claim by explaining the adverse entries on record as well as explanation as to how she has obtained the

document in the year 2000 when the record of Tahsil office was burn in fire on 03.07.1992.

18. In the background above, we are of the opinion that it would be proper to quash and set aside the order impugned by directing the Committee to reconsider the claim of the petitioner afresh, affording an opportunity for a hearing. Hence, we proceed to pass the following order:

ORDER.

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 30.10.2023 passed by the respondent Committee is hereby quashed and set aside, and the matter is remitted back to the Committee for fresh consideration in accordance with the law.
- iii) The petitioner is directed to appear before the Committee on 18.09.2024.
- iv) The respondent Committee is directed to decide the claim of the petitioner as expeditiously as possible and, in any case, within a period of four months from the date

of appearance of the petitioner.

19. Rule accordingly. No order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)