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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2514 OF 2023

Amol Subhash Bhamare,
Age-36 years, Occu-Service,
R/o Plot No.60A,
Ratnaprabha Colony, Deopur,
Dhule, Dist.Dhule – 424004

-- PETITIONER

VERSUS

1. State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400032
2. Scheduled Tribe Certificate Scrutiny
Committee, Dhule Division, Dhule,
Through it's Member Secretary,
having its office at Dhule,
Dist.Dhule
3. Maharashtra State Electricity
Generation Company Ltd.,
Through it's Executive Engineer,
having it's office at Vaitarna Jal Vidhyut Kendra
(Hydro Power Project), Vaitarna,
Ghoti, Dist.Nashik
4. Sub Divisional Officer,
Shirpur Sub Division, Shirpur,
Dist.Dhule

-- RESPONDENTS

Mr.R.K.Mendadkar, Advocate for the petitioner.
Ms.PJ.Bharad, AGP for respondent Nos.1, 2 and 4.
Mr.R.A.Tambe, Advocate for respondent No.3.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

RESERVED ON : 05.02.2025

PRONOUNCED ON : 27.02.2025

JUDGMENT : (Per Prafulla S.Khubalkar, J.)

1. Heard learned Advocates for the respective sides. Rule. Rule made returnable forthwith and heard finally by consent of parties.

2. The petitioner has assailed order dated 02.02.2023 passed by Respondent No.2 / Caste Scrutiny Committee invalidating his claim of 'Thakur' Scheduled Tribe. By the impugned order, the Committee has observed that the petitioner has failed to establish his claim on the basis of documentary evidence as well as on account of failure to prove affinity with 'Thakur' Scheduled Tribe. The Committee has observed that the petitioner has failed to submit reply to Vigilance Cell Enquiry report and has lost opportunity to discharge his burden.

3. Challenging the impugned order, Adv.R.K.Mendadkar, the learned Counsel for petitioner has vehemently submitted that the petitioner's claim ought to have been validated on the basis of pre

independence era documents, which showed the caste as 'Thakur'. He has submitted that the reliance placed by the Committee on the documents showing the caste as 'Bhat' is misplaced since those are the documents which are collected by the Vigilance Cell. He has submitted that on the basis of the oldest documents submitted by the petitioner, the caste claim ought to have been validated. He would submit that in response to the show cause notice dated 12.01.2023 accompanied with Vigilance Cell Enquiry report dated 21.12.2022, an e-mail dated 15.01.2023 was sent to the Committee calling upon it to supply a copy of genealogy so that appropriate reply could be filed. However, in absence of supply of document of genealogy, the petitioner was unable to submit reply and was deprived of the opportunity to establish his claim. He has submitted that in view of the validity certificate dated 08.02.2001 of petitioner's cousin brother Mukesh Bhamare, the petitioner's claim ought to have been validated. He would also submit that Committee has not properly appreciated the pre independence era documents of the year 1910, 1912, 1925 and 1933. He has vehemently submitted that the committee has not afforded him proper opportunity to establish his claim and therefore requested for an order of remand so that on the strength of the available pre independence era documents

and validity certificate, the claim can be properly decided.

4. The learned AGP Ms.PJ.Bharad for respondent Nos. 1,2 and 4 has strongly opposed the petition. She has submitted that the petitioner has himself failed to establish his claim although was afforded ample opportunity to submit reply to the Vigilance Cell report. She also submitted that there are documents showing entries of Bhat, Brahmhabhat, which are rightly appreciated by the Committee. She has further submitted that no reliance can be placed on the validity of Mukesh Bhamare since the same was granted by suppression of other relevant documents. Adv.Rahul Tambe, appearing for respondent No.3 has submitted that the petitioner has got employment at respondent No.3 on the basis of his caste category, but he has failed to secure validity certificate and therefore liable to face the consequences thereof.

5. We have considered the rival submissions and perused the record.

6. A perusal of record shows that, to establish his caste claim, the petitioner has submitted before the Committee a number of

documents of pre independence era, which showed the caste as 'Thakur'. During enquiry, the Vigilance Cell has also collected old documents showing caste as 'Bhat', 'Thakur Rajput', 'Brahmabhat' etc. The Vigilance Cell enquiry was conducted in the matter of the petitioner and the report dated 31.03.2011 was served upon him, alongwith a show cause notice dated 30.03.2012 (Exh.'C'). The petitioner has submitted his reply dated 11.04.2012 (Exh.D) to this Vigilance Cell Enquiry report. Thereafter, a second Vigilance Enquiry dated 03.09.2020 was conducted and the petitioner was served with show cause notice dated 08.10.2020 (Exh.E). The petitioner has submitted his reply dated 23.10.2020 (Exh.F). However, thereafter a third Vigilance Cell Enquiry was conducted and the report dated 21.12.2022 with show cause notice dated 12.01.2023 (Exh.G) was served upon the petitioner. However, instead of replying to the 3rd Vigilance Cell enquiry, the petitioner has only issued an e-mail dated 15.01.2023 through his lawyer demanding document of genealogy tree. It appears that the document was not supplied and the petitioner failed to reply to the show cause notice. The matter was proceeded and decided without petitioner's reply to 3rd Vigilance Cell report.

7. As regards the documentary evidence, it is pertinent to note that there are documents in the nature of school leaving certificates and extracts of school registers of the year 1910, 1912, 1925 and 1933 of the family members of the petitioner, whose names are mentioned in the genealogy relied upon by the petitioner. The learned Counsel for the petitioner has invited our attention particularly to the school leaving certificate of Thansingh Khumansingh showing date of admission in school as 01.06.1910, extract of school admission register of Kashiram Ganpatsingh Thakur showing date of admission as 11/1925, school leaving certificate of Ramsingh Gangaram showing date of admission in school as 06.01.1933. These documents have high probative value and are oldest documents. Further, validity of Mukesh needs to be given due weightage. The relationship of petitioner with validity holder Mukesh Bhamare is not disputed and the petitioner is entitled to take benefit of this validity.

8. Crucial to note, petitioner's employment is dependant on his caste claim. Record shows that he has pursued his caste claim by submitting various documents referred in the impugned order and by submitting replies to the Vigilance Cell reports on two occasions. This

being a matter of social status of the petitioner and his family members, the petitioner's request for a proper opportunity to establish his claim needs to be given consideration. The documents of pre-independence era referred above, are indeed crucial for deciding the petitioner's claim. So also, validity of Mukesh Bhamare cannot be easily brushed aside. The reasoning of Committee to discard the validity of Mukesh by simply mentioning that there was suppression of facts and misrepresentation while validating his claim, are not sufficient to establish fraud on the part of Mukesh. Since the validity of Mukesh is in force, his close blood relatives are entitled to derive its benefit.

9. Pertinently, decision on caste claim is not in the nature of an adversary litigation. It has serious consequences not only for the candidate but also for his entire family members. Although there are documents showing contrary entries as referred by the Committee in the impugned order, it is necessary that all other pre independence era documents are properly appreciated. In view of the fact that the petitioner's employment is dependent upon his validity certificate, it is in the interest of justice to extend an opportunity to the petitioner to establish his caste claim.

10. In the light of the above mentioned circumstances, we are of the considered view that this is a fit case for remand to the Scrutiny Committee / respondent No.2, for a fresh decision by affording an opportunity to the petitioner to establish his caste claim. Remanding the matter will not cause any prejudice to anybody, rather it will meet the ends of Justice. Hence, we pass the following order :

[a] The impugned order dated 02.02.2023 passed by the respondent No.2 / Committee is quashed and set aside.

[b] The matter is remanded back to the Committee for its decision afresh, by affording an opportunity to the petitioner to submit the necessary documents and reply, if he so desires.

[c] The Committee is directed to decide the caste claim of the petitioner as early as possible and within a period of six months. The petitioner is directed to appear before the Committee and co-operate the Committee for speedy decision.

11. Rule is made absolute in the above terms.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)