



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 REVIEW APPLICATION (CIVIL) NO. 241 OF 2024
IN WP/9175/2019

Shivanna Narsing Goskulwar

VERSUS

The State Of Maharashtra Through Secretary And Others

WITH

REVIEW APPLICATION (CIVIL) NO. 239 OF 2024
IN WP/9173/2019

WITH

REVIEW APPLICATION (CIVIL) NO. 240 OF 2024
IN WP/9174/2019

WITH

CIVIL APPLICATION NO. 12214 OF 2024
IN RA/241/2024

Shri S. M. Vibhute, Advocate for the Applicant

Smt. P. J. Bharad, AGP for Respondent Nos. 1 and 2

Shri S. B. Pulkundwar, Advocate for Respondent Nos. 3 and 4

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 06.02.2025

ORDER (MANGESH S. PATIL, J.):

. We have heard both the sides.

2. The original petitioners are seeking the power of review to be invoked in respect of our judgment and order dated 01.10.2024, whereby we dismissed the writ petitions and sustained the order of the respondent/Scrutiny Committee, whereby it had invalidated their

‘Mannervarlu’, Scheduled Tribe Certificates.

3. The learned advocate Mr. Vibhute, for the original petitioners and review applicants submits that while analyzing the evidence, the committee had proceeded on the premise that the school record relied upon by the first validity holder Prachi Bhagwan Goskulwar in respect of one Nana Shivayya and Bankanna Shivayya stated to be of the years 1927, 1935 A.D., was forged and since she was successful in obtaining validity based on such forged school record and since the subsequent validity holders had simply derived the benefit of her validity, the petitioners applicants were not entitled to derive benefit of Prachi’s validity.

4. While passing the order under review, this Court has also sustained the inference drawn by the Committee in that regard. He submits that, in fact, it was an error on the part of the concerned Headmaster who was called upon by the Committee and had informed it that the school was established in the year 1939 A.D. The error had crept in because of the difference in the English Calendar and the *Mohammedan* Calendar. He submits that subsequently the petitioners could approach the Headmaster concerned and have even been successful in getting a fresh communication mentioning that the school concerned was in fact established in 1339 *Fasli* (1929 A.D.).

Based on this, the learned advocate submits that an opportunity may be given to the petitioners to go back to the Committee and point out this aspect.

5. The learned advocate for the petitioners would also submit that in fact, this disputed school record of Nana and Bankanna was not relied upon by the petitioners and was not revealed during the course of vigilance inquiry conducted in their matters. He would submit that it is only while conducting hearing since the petitioners were relying upon Prachi's validity, the committee could go through her file and could trace out this record. It is thereafter, the committee chose to call for the Headmaster and based on his statement, the copies of the school record were discarded branding to be forged ones. There was no opportunity to the petitioners, to respond to such record revealed by the committee during the course of hearing. The committee could have resorted to a vigilance inquiry to verify genuineness of that school record, which would have extended an opportunity to the petitioners to take appropriate stand depending upon the result of the vigilance inquiry. He would thus submit that the allegations of the record being forged was pitted against the petitioner without extending any opportunity to meet the allegations. The learned advocate would submit that the error has perpetuated in

the form of passing of the order under review wherein for the reasons assigned, this Court has accepted the stand of the committee branding the school record of Nana and Bankanna, to be forged one. This being a matter of social status, doors may not be shut to the petitioners. The matter can be remanded to the committee, enabling the petitioners to substantiate their claims.

6. The learned AGP submits that this being a matter of review, the scope for this Court to invoke the power is limited and circumscribed by the law. There is no error apparent on the face of the record or any other sufficient cause. The writ petitions cannot be decided afresh on all counts. The plausible view taken by the committee was substantiated by this Court in non-suiting the petitioners. That being a plausible view based on correct and reasonable appreciation of the evidence, the petitioners are not entitled to seek indulgence of this Court for approaching the committee again.

7. Learned AGP would further submit that it is not that the matters have been decided by this Court simply on the basis of the aforementioned two school entries. Few other reasons have also been assigned by this Court to substantiate its inference about failure on the part of the petitioners to substantiate their claim by leading cogent and convincing evidence. Contrary record was also pointed

out apart from the dubious school record, which remained unexplained. Therefore, nothing is to turn on simply on the basis of finding about dubious school record being overturned. She would further point out that in fact, even on the improvised stand of the petitioners, no explanation can be found to take exception to the inference about the school record of Nana of 1927 A.D., when the school was non-existent.

8. The learned AGP would additionally bring to our notice from Prachi's original file, a statement of her father Bhagwan, who happens to be Nana's son was also recorded on 18.06.2007. It is Bankanna's school record of 1935 alone which at the most can be scrutinized. In his statement, Bhagwan had expressly stated that he had only one paternal uncle Bankanna Shivayya Goskulwar and he was illiterate. She would, therefore, submit that if Bhagwan's this statement has to be accepted, that would bely the petitioners even in respect of Bankanna's school record of 1935 A.D. She therefore, submits that the petitioners are merely taking chances and are unable to substantiate their claims. Review jurisdiction cannot be exercised in disguise, as if an appeal is being preferred.

9. We have considered the rival submissions and perused the papers.

10. In the normal course, the issue involved being of social status, which is not an adversarial litigation, a prayer for remand could have been considered positively, but for the peculiar facts and circumstances, as have been presented before us.

11. Apart from the fact that the order under review was passed not merely by referring to the dubious nature of the two school entries of Nana and Bankanna, additional grounds in the form of contrary record revealed, was also a basis for us to dismiss the petitions.

12. Consequently, in our considered view, nothing would turn on by reappreciating Bankanna's school record of 1935 A.D., if it is a matter of appreciation of evidence to cull out effect of the entire evidence, to reach a conclusion.

13. Independently, accepting the stand of the petitioners that there was some error on the part of the Headmaster in informing the committee about the date of establishment of the school and taking that the school was established on 1339 *Fasli*, corresponding to 1929 A.D., still, since school record of Nana that was relied upon by Prachi was of the year 1927, no exception can be taken to the inference drawn by committee as also by us about that record being bogus.

14. So far as the school record of Bankanna of 1935, is concerned, that apparently stands belied in the form of statement of Prachi's father Bhagwan, wherein he had expressly stated that his paternal uncle Bankanna was illiterate. Nothing is before us beyond the statement of Bhagwan, which has never been taken exception to, rather the committee at the time of considering Prachi's claim, had also for the reasons best known to the committee, overlooked this statement, as it does not find place in the order passed by the then committee in her matter.

15. Be that as it may, in the wake of the fact that Bankanna was stated to be illiterate, this would be an additional ground to discard the school entry of 1935 A.D.

16. True it is that the school record of both Nana and Bankanna was not a part of the inquiry at the initial stage and obviously, there was no reference to it even in the vigilance report submitted in petitioners' matters. It is evident that the committee could lay hands on this while examining the petitioners' claims who have been seeking to derive benefit of Prachi's validity. Assuming that there was some element of prejudice in using such school record from Prachi's file and pitting it against the petitioners, this was not a specific and precise ground having adequate pleadings while preferring the

petitions. There is absolutely no reference in the petition memos to demonstrate as to how some prejudice was caused to the petitioners because of a reference to the Prachi's file. Needless to state that since the petitioners were relying upon Prachi's validity which was first in point of time in the entire family, it cannot be said that the petitioners were oblivious of the circumstances under which she was able to procure the certificate of validity. This is over and above, to repeat absence of any concrete pleadings in the petition memos.

17. As we have stated at the inception, these being social status matters, we extended an opportunity of being heard and could even go through Prachi's original file, wherein even statement of her father Bhagwan referred to hereinabove could be traced.

18. Bearing in mind the limited scope of review jurisdiction, aforementioned circumstances, in our considered view, are more than enough to dismiss the applications.

19. Hence, the applications are dismissed.

(SHAILESH P. BRAHME, J)

(MANGESH S. PATIL, J.)

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