



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

WRIT PETITION NO.1771 OF 2019

Ganesh Shamraoji Bharadbhunje ..

..Petitioner

versus.

State of Maharashtra through Scheduled Tribe
Cast Scrutiny Committee, Nagpur. And three others.

..Respondents

Mr R.S.Parsodkar, Advocate for petitioner.
Mr. Hrishikesh Marathe, AGP for respondent no.1
Mr. V. P. Maldhure, Advocate for respondent nos. 2 to 4.

CORAM :- NITIN W. SAMBRE and SACHIN S. DESHMUKH, JJ.

DATE :- 24th JUNE, 2025

P. C.

Heard learned counsel appearing for the parties.

2. The challenge in the petition is to the order dated 29.12.2017 passed by the respondent no.1– Committee whereby the tribe claim of the petitioner has been invalidated. The petitioner has also prayed for protection of service and issuance of direction for withholding of the Disciplinary Enquiry proceedings initiated against him.

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

(i) On 28.01.2008 the petitioner came to be appointed as a ‘Clerk’ with the respondent nos. 2 to 4. The said appointment of the petitioner was from the reserved category, viz. Scheduled Tribe category. The petitioner was promoted as Senior Clerk on 16.11.2011.

(ii) The respondent-Employer pursued the issue with the petitioner so as to have compliance from him, viz. an application in appropriate proforma to be forwarded to the respondent no.1 Committee for carrying out the tribe validity proceedings along with the tribe certificate.

(iii) It appears that the petitioner, instead of submitting such documents, indulged into the act of seeking information under the Right to Information

Act, 2005 and protested the action of the respondent of sending his case for verification, etc., and spent certain time by taking recourse to such events.

(iv) Thereafter the respondent Committee received the claim of the petitioner vide communication dated 19.11.2012 along with the supporting documents. The Committee referred the claim of the petitioner, since it was not satisfied, to the Vigilance Cell for carrying out field/home enquiry. The Vigilance Cell submitted its report dated 17.05.2014 which was duly served on the petitioner seeking his explanation.

(v) Since the Committee was not satisfied with the material available on record so as to justify the claim of the petitioner of belonging to 'Halba' Scheduled Tribe, it proceeded to cause hearing in the matter and vide impugned order dated 29.12.2017 was pleased to reject the claim of the petitioner for issuance of validity.

4. Mr. Parsodkar, learned counsel appearing for the petitioner, has made two fold contentions; (a) that the order impugned dated 29.12.2017 passed by the respondent no.1-Committee is in violation of the principles of natural justice as though the notice of the Vigilance Cell was served on the petitioner, without granting reasonable opportunity, the Committee has proceeded to pass the impugned order, and (b) that the oldest entries of 'Halba' in relation to father and cousin uncle are intentionally ignored by the Committee.

In addition to the above, the petitioner claimed that he had instructed his learned counsel/lawyer to file an explanation to the Vigilance Cell report and it is the failure of the lawyer/counsel which has resulted in the non-filing of the explanation to the Vigilance Cell report and as such, the Committee has accepted the report of the Vigilance Cell as it is, which is relied on for rejection of the tribe claim of the petitioner.

5. As against above, learned counsel for the respective counsel including Mr. Marathe, learned Assistant Government Pleader would strenuously support the impugned order. He would claim that not only the Vigilance Cell conducted home enquiry and noticed the pre-Constitutional era adverse entries in relation to the petitioner's blood relations, which were duly

supplied to the petitioner but there is a failure on the part of the petitioner to explain such adverse entries. According to Mr. Marathe, the petitioner has even failed to satisfy the affinity test.

As regards denial of opportunity of hearing is concerned, it is claimed that since beginning the petitioner was resisting the claim being referred to the Committee for verification. According to Mr. Marathe, the alleged stand of the petitioner of the lawyer's failure to furnish the explanation to the Vigilance Cell is brought on record by way of an afterthought, as neither such pleadings were in existence when the petition was filed nor any notice was issued to the lawyer by the petitioner.

6. We have considered the rival claims.

7. The record depicts that the petitioner was issued a caste certificate on 12.03.2001 based on which he entered into the service with the respondent nos. 2, 3 and 4 in the capacity of the 'Clerk'. In 2009 the petitioner was confirmed on the same post and, in 2011, the petitioner was promoted to the post of 'Senior Division Clerk'. The fact that the petitioner entered into the employment on a reserved post is undisputed feature.

8. The petitioner in support of his tribe claim has submitted the oldest documents in relation to his father namely Shamrao s/o Shrawan, viz. the school leaving certificate dated 04.07.1955, the secondary school leaving certificate of 28.05.1960 and the caste certificate of his father of 1968. Further the documents in the form of the extract of the school registers of cousin uncles dated 01.11.1955 and 16.08.1955 in relation to Pandurang born to Dashrath, Bhagwan born to Rama were also submitted.

9. The fact remains that the only document in relation to father of the petitioner, viz. school register abstract of 04.07.1955, school record extract of Pandurang and Bhagwan, i.e. cousin uncles of 01.11.1955 and 16.08.1955 depicts the occupation as 'weaving'.

It is settled that 'weaving' as an occupation is taboo in the 'Halba' Scheduled Tribe.

10. Apart from the above, what is required to be considered is that the Vigilance Cell conducted an enquiry in the matter of tribe entries in relation to blood relations of the petitioner. During such field enquiry, the Vigilance Cell has collected adverse entries in relation to uncle Tulshiram born to Shrawan, Ghanshyam born to Maroti, cousin uncle, Pannalal born to Muka cousin uncle, Anandrao born to Dashram cousin uncle and Janardan born to Shrawan, real uncle. From 1942 to 1952 the entries in relation to all these five people in the school record are that of 'Koshti'. Said Vigilance Cell report was duly served on the petitioner vide communication dated 17.05.2014. The petitioner has chosen not to file any reply in the matter of the Vigilance Cell report, even the report was made available to him along with the documents. The Vigilance Cell report was consisting of the material collected by the Committee in relation to trade and customs which are followed and adopted in the family of the petitioner, viz. family tree.

11. The fact remains that the petitioner has chosen not to file any reply to the Vigilance Cell report and counter the evidence which was brought on record by the Vigilance Cell and was adverse to the interest of the petitioner.

12. Section 8 of the The Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), 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) contemplates a burden cast on the petitioner in the matter of discharge of liability to prove that he belongs to a particular category. One of the modes to which the petitioner should have adopted in the matter of discharge of such burden is, by countering the Vigilance Cell report by submitting the reply and thereafter placing on record the other evidence.

13. The fact remains that the petitioner has chosen not to file reply to the Vigilance Cell report.

Apart from the above, all the documents which are in the form of adverse entries made available to the petitioner are of pre-Constitutional era and are prior in point of time than that of the entries on which the petitioner has relied on.

14. The oldest entry on which the petitioner has relied is of 04.07.1955, whereas the Committee has relied on the oldest entry of 08.09.1942. The petitioner has neither denied the relationship with the persons who are named in the Vigilance Cell report whose caste is entered as 'Koshti' nor has he established that those persons are not related to him. The only ground which the petitioner has raised vide ground No.40(r) is that the Committee has not conducted the enquiry as regards the entire family and on the basis of the persons who are not related to the petitioner, the caste claim is invalidated. If the aforesaid ground is tested in the light of the factual matrix narrated by the petitioner, we have already noted that it was never the stand of the petitioner before the Committee that he has denied relationship with the persons who are referred in the Vigilance Cell report. The petitioner has tried to pass on the blame for not filing the reply to the Vigilance Cell report on his erstwhile lawyer. A ground to that effect is sought to be raised by way of an amendment. Such ground is raised by the petitioner after changing the counsel and amending the petition which *prima facie* lead to only inference that such conduct of the petitioner is by way of an afterthought with an intention to create grounds in the matter. The petitioner, rather dishonestly has sought such ground by way of an afterthought. The petitioner has chosen not to issue any notice to his erstwhile lawyer for alleged failure but has made allegations against him that too, without any basis. This speaks voluminously about the ill conduct of the petitioner.

15. Apart from the above, the petitioner has tried to delay the verification process by entering into unnecessary communication with its employer by taking recourse to the Right to Information Act, 2005. Even on the affinity side, since the petitioner has admitted that his father and uncle belong to weaving community, viz. their occupation in the old document is shown to be 'weaving', which is taboo in the 'Halba' Scheduled Tribe, the petitioner has said to have not cleared the affinity test also.

16. In that view of the matter, the petition sans merits. The same stands dismissed. No costs.

Pending applications, if any, stand disposed of.

(SACHIN S. DESHMUKH, J.)

(NITIN W. SAMBRE, J.)

Andurkar.