



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

WRIT PETITION NO. 3980 OF 2024

1. Raghunandan Dashrath Parate
age : 62 years, retired as Assistant
Engineer from MSPGCL,
Khaparkheda, R/o 32, old Subedar
layout, Nagpur
2. Ku. Sargam Raghunandan Parate
age : 27 years, Occ : Student,
R/o 32, old Subedar layout, Nagpur
3. Ku. Falguni Raghunandan Parate
age : 19 years, Occ : Student,
R/o 32, old Subedar layout, Nagpur

.. Petitioners

Versus

1. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Adiwasi Vikas Bhawan, Giripeth,
Nagpur, through its Member
Secretary
2. The Chief Engineer (Tech),
Maharashtra State Power Generation
Company Limited (MSPGCL)
Estrella Batteries Expn. Bldg,
Dharavi Road, Matunga,
Mumbai – 400019
3. The Chief Engineer,
Maharashtra State Power Generation
Company Limited, Khaparkheda
Thermal Power Station,
Khaparkheda, Tq.Saoner,
Nagpur – 441102
4. State Common Entrance Test Cell,
Maharashtra State through its
Commissioner and Competent
Authority, 8th Floor, Excelsior
building, A.K.Nayak Road, Fort,
Mumbai – 400 001

.. Respondents

Mr. R.S. Parsodkar, Advocate for petitioners.
Ms.T.H.Khan, Assistant Government Pleader for respondent No.1.
Mr. N.A.Gaikwad, Advocate for respondent No.4.

**CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : 09/05/2025

JUDGMENT (PER : ABHAY J. MANTRI, J.)

Heard. **Rule.** Heard finally with the consent of the learned counsel appearing for the parties.

(2) The petition questions the order dated 31/05/2024 passed by respondent No.1, Scheduled Tribe Caste Certificate Scrutiny Committee (for short- '**the Committee**'), thereby invalidating the claim of the petitioners that they belong to the "**Halba**" Scheduled Tribe. The petitioners also sought direction against respondent Nos. 2 and 3 to release the benefits of the 2nd and 3rd GOS and other allowances and arrears.

(3) The petitioners Nos. 2 and 3 are the daughters of petitioner No.1. All the petitioners have obtained a caste certificate from the Competent Authority. Initially, the caste claim of the petitioner No.1 was invalidated by the order dated 03/06/2020, which he challenged in Writ Petition No.5096/2021. The said petition came to be

partly allowed vide order dated 05/10/2023, and the impugned order therein was quashed and set aside, and the matter was remanded back to the Committee for fresh consideration.

(4) Similarly, the claim of the petitioner No.2 was rejected by the respondent No.1 Committee vide its order dated 29/10/2020, which was challenged in Writ Petition No.5431/2022 before this Court. This Court vide order dated 17/10/2023 quashed and set aside the order passed by the Committee and remanded the matter back to the Committee for fresh consideration. Likewise, the claim of petitioner No.3, Falguni, for the grant of validity was also rejected by the Committee vide its order dated 08/10/2021, which she challenged in Writ Petition No.4734/2023. This Court vide order dated 05/10/2023 quashed and set aside the order of the Committee and remanded the matter back to the Committee for fresh consideration.

(5) All three remanded matters came before the Committee on different dates for adjudication. The Committee considered all three claims simultaneously and invalidated the petitioners' claim by a common order dated 31/05/2024. Aggrieved by this, the petitioners preferred this petition.

(6) Mr. Parsodkar, learned counsel for the petitioners, vehemently contended that earlier this Court vide order dated

05/10/2023 quashed and set aside the order of the Committee and remanded the matter back to the Committee for fresh consideration with a direction that the petitioners be permitted to rely upon the documents for the period from 19/04/1916 to 30/04/1918 and granted an opportunity to explain the said documents. However, the respondent No.1 Committee has not considered those documents in its proper perspective and erred in rejecting the claim of the petitioners, holding that during the enquiry, the Vigilance Cell discovered some entries that were found to be fabricated. He argued that the said entry was found in the old register and therefore, it was incumbent on the Vigilance Cell and respondent No.1 Committee to demonstrate that the petitioners or anybody on their behalf have inserted the said entry in the said register, but they failed to establish the same, therefore, the findings recorded by the Committee are illegal and perverse in that regard.

(7) He further argued that the document of 1916 is more than 100 years old. The entries which the Committee discovered are subsequent to the said entry and therefore, as per the settled position of law, old pre-Constitutional era document is having more probative value than the subsequent document, however, the Committee has erred in discarding the said material document, therefore, the findings given by the Committee cannot be sustained in the eyes of law.

(8) To substantiate his contention, he has relied upon the decision of the Hon'ble Apex Court in ***Sayanna vs. State of Maharashtra and others [(2009) 10 SCC 268]*** and submitted that the Hon'ble Apex Court has held that the committee never attempted to get an expert opinion nor itself had compared the disputed handwriting in the documents with the admitted handwriting of the applicants. It was incumbent on the Vigilance Cell and the Committee to demonstrate that said interpolation was made by the petitioners or somebody else on their behalf. However, they failed to establish in the present case, and therefore, the findings recorded by the Committee are perverse and liable to be set aside. Hence, he urged the petition to be allowed.

(9) *Per contra*, Ms. Khan, learned Assistant Government Pleader, has strenuously argued that the Vigilance Cell during the enquiry discovered 10 pre-Constitutional era documents pertaining to ancestors of the petitioners from 20/06/1918 to 1947, wherein their caste had been recorded as "*Koshti*". The petitioners neither disputed their relationship with their ancestors nor disputed the caste recorded as "*Koshti*"; they only contended that the entries were mistakenly taken as "*Koshti*" because their profession was weaving. The explanation of the petitioners is not tenable in the eyes of the law, as "*Koshti*" is an independent caste. Therefore, she supported the findings recorded by the Committee and urged for dismissal of the petition.

(10) We have considered the rival contentions of the learned counsel for the parties and perused the impugned order and record. We have also gone through the original register of Chinteshwar Primary School, from which the petitioners obtained the certified copy of the entry dated 30/04/1918 and other original records and returned them.

(11) Learned Counsel for the petitioners mainly empathises on the extract of the School Admission and Leaving Register of Chinteshwar Primary School regarding father of the petitioner No.1 Dashrath Madhavrao, the said entry is of dated 30/04/1918 and submitted that the said entry is the oldest one wherein caste of his father had been recorded as "*Halba*", therefore, as per the settled position of law, the petitioners by producing the oldest entry had demonstrated that their ancestors belong to "*Halba*" Scheduled Tribe.

(12) As against, the learned Assistant Government Pleader categorically denied the said entry, contending that the Vigilance Cell verified the original register and they found that someone had interpolated the entry in the register at the bottom of the said register. The ink and the handwriting of the said entry differ from the other entries made in the register. Therefore, she submitted that the entry was recently taken by interpolation. If the said entry is ignored, the other 10 entries demonstrate that the ancestors of the petitioners belong to the "*Koshti*" caste.

(13) Considering the contradictory claims, we have called the Original School Admission and Leaving Register and verified and compared the said entry with the other entries in the register as defined in Section 72 of the Bharatiya Sakshya Adhiniyam, 2023 (old Section 73 of the Indian Evidence Act, 1872) to ascertain whether the handwriting and ink of the said entry is similar to the other entries or different? On comparison of the said entry with other entries, we found that the handwriting of the said entry, as well as the ink of the said entry, are different from the other entries in the said register.

(14) It is pertinent to note that the said entry was taken at the bottom of the page/the end of the page, and no margin exists below the said entry. It appears that said entry was inserted in the margin at the bottom of the page. Also, the ink and handwriting of the said entry appear different from the other entries in the register; therefore, in their opinion, prima facie, the said entry seems to have been inserted recently. Thus, we found substance in the contention of the learned Assistant Government Pleader in that regard. If the disputed entry is ignored, then the Vigilance Cell has discovered 07 pre-Constitutional era documents from 20/06/1918 to 1947 pertaining to the father, real uncle, cousin brother, cousin sister of petitioner No.1, wherein their caste had been recorded as "**Koshti**". That being so, what has been held in the case of **Sayanna** (supra) is not helpful to the petitioner.

(15) It is pertinent to note that the petitioners neither denied their relationship with their ancestors, nor disputed the said entries, but their defence was only that by mistake the said entries were recorded as "**Koshti**" because their profession was weaving. It is to be noted that "**Koshti**" is an independent caste. That being so, it cannot be said that the entries were taken in the pre-Constitutional era documents by mistake. The petitioners failed to explain the said adverse entries. Also, the petitioners failed to explain how those entries appeared in the revenue record, as well as the School record. According to them, the oldest entry of 1918 was recorded as "**Halba**" caste. In such an eventuality, it was incumbent on the petitioners to explain as to how the subsequent entries were recorded as "**Koshti**". The petitioners failed to explain those entries and thereby failed to discharge the burden cast on them.

(16) It is a settled principle that a person gets their caste by birth, and it is a settled law that pre-independent era documents have more probative value than subsequent documents. As such, the pre-independent era entries about the ancestors of the petitioners have more probative value.

(17) Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2000 (Act of 200) casts burden on the petitioners to prove that the aforesaid entries are incorrect or that they belong to “*Halba*” Scheduled Tribe. The fact remains that the petitioners have failed to discharge such burden. On the contrary, they have not disputed the entries in 07 pre-Constitutional era documents, wherein their ancestors’ caste was recorded as “***Koshti***”. The entry of 1918 on which they were relying was disputed by the Vigilance Cell, as well as the Committee. Moreover, on verification of the original record, we find substance in the contention of the learned Assistant Government Pleader in that regard.

(18) Similarly, Full Bench of this Court in ***Maroti Vyankati Gaikwad vs. Deputy Director & Member-Secretary, the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and others***, after considering the various judgments of the Hon’ble Apex Court as well as this Court has categorically held that “the entries has to be read as it is and not as otherwise”. We would like to reproduce para 17.7 of the said judgment, which reads thus :-

“17.7. It would thus be clear that any claim by any tribe, sub-tribe or parts of such tribe or sub-tribe, whether having any similarity, prefix/suffix, synonymity, with the name of the tribe as mentioned in the Presidential (ST) Order 1950, of being included in such Scheduled Tribe, would not be permissible. No enquiry with respect to such a claim is permissible. No enquiry of any nature whatsoever is permissible with reference to any material, whatever it may be and in whatever form, to interpret or construe the entries in the Presidential (ST) Order 1950, which have to be read as it is. The Scheduled Tribe ‘Mana’, in Entry 18, has to be read as only ‘Mana’, and not as an umbrella or community and therefore,

tribes with similar/synonymous names or names with prefix/suffix to 'Mana' cannot claim any social status of a Scheduled Tribe. Thus, persons belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe 'Mana', in entry 18 in the Presidential (ST) Order 1950 and thus cannot claim the status of a Scheduled Tribe."

(19) As such, from the available documentary evidence, it cannot be said that the petitioners have discharged the burden as contemplated under Section 8 of the Act of 2000, thereby proving that they belong to "**Halba**", a Scheduled Tribe. Moreover, the oldest 07 pre-Constitutional era documents from 20/06/1918 to 1947, discovered by the Vigilance Cell, which the petitioners did not dispute, therefore, there is no reason to discard those documents or entries of their ancestors wherein their caste was recorded as "**Koshti**".

(20) In this background, in our opinion, the petitioners cannot be said to be belonging to "**Halba**" Scheduled Tribe; rather, the Committee is justified in recording the finding that the petitioners had failed to discharge the burden cast on them to demonstrate that they belong to "**Halba**" Scheduled Tribe. For all the above reasons, we are of the view that no case for causing interference in extraordinary jurisdiction is made out. As a result, the petition being bereft of merits, it stands dismissed.

(21) Rule is discharged. No order as to costs.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

KOLHE