



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

WRIT PETITION NO.5045 OF 2024

Premlata D/o Manoharrao Sonparote
age : 48 years, Occ. : Service,
R/o. Vishnu Kamal Nagar, Near
Dinbai School, Digras, Dist. Yavatmal

.. Petitioner

Versus

1) The Schedule Tribe Caste Certificate
Scrutiny Committee, through its
Member Secretary and Deputy
Director, Sanna Building,
Opp. Govt. Rest House,
Camp Amravati – 444 601

2) The Joint Director, Higher Education,
Amravati Division, Amravati

3) The Registrar, Sant Gadge Baba,
Amravati University, Amravati

4) B.B.Arts, N.B.Commerce and
B.P.Science College, through its
Principal, Digras, Dist. Yavatmal

.. Respondents

Mr. Ashwin Deshpande, Advocate for Petitioner.

Mr. A.A.Madiwale, Assistant Government Pleader for respondent
Nos.1 & 2.

Ms. Vedika Thakre, Advocate for respondent No.4.

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

DATE : MARCH 04, 2025

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

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

(2) The petitioner feeling aggrieved by the order dated 31/07/2024 passed by the respondent No.1 Schedule Tribe Caste Certificate Scrutiny Committee, Amravati (for short '*the Committee*'), thereby invalidating the caste claim of the petitioner that she belongs to "**Halbi**", Scheduled Tribe, has filed this petition.

(3) The petitioner claims that she belongs to the "Halbi" Scheduled Tribe. Accordingly, on 12/01/1989, the Executive Magistrate, Achalpur, issued a caste certificate in her favour. The petitioner was appointed as 'Lecturer' on the post reserved for the Scheduled Tribe category with respondent No.4 College at Digras vide appointment order dated 15/11/1999. Her caste certificate and relevant documents were submitted to the respondent No.1 Committee through the Principal, Rashtriya Junior College of Science, Achalpur, for verification.

(4) The petitioner earlier had filed a Writ Petition No.3841/2013 challenging the cancellation of the validity certificate of the petitioner belonging to "*Halba-Koshti*" in view of the judgment reported in 2001(1) Mh.L.J. (1) (*State of Maharashtra vs. Milind Katware*). "*By order dated 04/01/2024, the said writ petition was*

disposed of by permitting the petitioner to raise a claim of her belonging to "Halbi", a Scheduled Tribe, as according to her, that was the original claim raised in the application for grant of validity certificate. The matter was, accordingly, remanded to the respondent Caste Scrutiny Committee." Pursuant to the decision in the said writ petition, the petitioner appeared before the Committee on 22/23/01/2024 and submitted all relevant documents to support her tribe claim.

(5) The Committee was of the view that a detailed enquiry is required in the matter, as per Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003. The Vigilance Cell thoroughly inquired into the matter and submitted a report to the Committee on 01/07/2024, observing that some adverse entries, i.e. "**Sali**", had been found during the enquiry pertaining to her grandfather. Accordingly, the Committee issued a show-cause notice to the petitioner, calling upon her explanation about the said adverse entries. The petitioner appeared before the Committee along with her father on 11/07/2024 and submitted her explanation to the show-cause notice. The Committee, after considering the Vigilance Cell report, explanation submitted by the petitioner and documents on record, invalidated her claim that she belongs to the "Halbi" Scheduled Tribe, hence, this petition.

(6) The learned counsel for the petitioner vehemently contended that the petitioner, to substantiate her claim, has produced 28 documents on record. Out of them, 10 documents are from the pre-constitutional era pertaining to her father, grandfather, cousin-grandfather and great-grandfather, wherein their caste had been recorded as "Halbi" Scheduled Tribe. The Vigilance Cell has not disputed those documents. He further canvassed that the documents of 1929 and 1949 had no concern with the petitioner, and therefore, the petitioner had categorically denied those documents by filing an explanation. Thus, the caste "Sali" mentioned in those documents would not hamper the case of the petitioner. However, the Committee, without considering those 10 pre-constitutional era documents, had given undue importance to the 02 documents that were not related to her and passed the impugned order. Therefore, it cannot be sustained in the eyes of the law and is liable to be set aside. Hence, he urged for allowing the present petition.

(7) Learned Assistant Government Pleader strenuously resisted the petition on the ground that two adverse entries of "Sali" had been discovered during the Vigilance Cell enquiry; those entries pertained to the grandfather of the petitioner, and as those entries being the pre-constitutional era has greater probative value, therefore, passing of the order by the Committee is just and proper and no interference is required in it. The next submission is in relation to the

affinity test and the rejection of the claim based on it. The petitioner failed to prove the affinity test and could not discharge the burden cast upon her to demonstrate that she belongs to the "Halbi" Scheduled Tribe. As such, she was urged to dismiss the petition.

(8) We have appreciated the rival contentions of the learned counsel for the parties and perused the impugned order and record. We have also gone through the original record and returned it.

(9) At the outset, it appears that the petitioner, in support of her claim, has produced 28 documents, out of which 10 documents are from the pre-constitutional era, from 1922 to 1950, pertaining to her father, grandfather, great-grandfather and cousin-grandfather, wherein their caste had been recorded as "Halbi". Notably, neither the Vigilance Cell nor the Committee has disputed those documents or the authenticity of the entries in those documents. Therefore, there is no reason to disbelieve those documents, but the Committee has given undue importance to two disputed documents discovered during the Vigilance Cell enquiry of 1929 and 1949.

(10) Mr. Deshpande, the learned counsel for the petitioner, pointed out the genealogical tree on page no.45 (46-A typed copy) to us and submitted that grandfather Narayan had three sons and one daughter, namely (1) Vinayak (2) Manohar (3) Ananta and (4) Venutai.

He also drew our attention to the School Leaving Certificates of (1) Vinayak (page 94), (2) Manohar (page 91) and (3) Ananta (page 95), wherein their dates of birth are mentioned as 26/09/1937, 11/05/1939 and 15/03/1944 respectively and submitted that none of the sons was born to Narayan in the year 1929, as claimed by the Vigilance Cell. Therefore, the question of a son born to Narayan in the year 1929 does not arise at all. He further submitted that no name of said son was also found in the genealogical tree. He also canvassed that the petitioner's ancestors were residents of Raipura, Achalpur and not from Sarmaspura. Therefore, he argued that the entries in the document of the year 1929 do not pertain to the relatives of the petitioner. On verifying the record, we found substance in his contention; hence, we accepted the same.

(11) The second document that the Committee considered is of 1949. The document pertains to one Yesubai, but in the genealogical tree, the daughter's name is mentioned as Venutai. Therefore, a discrepancy appears regarding the name of Narayan's daughter. On the contrary, 10 documents from 1922 to 1950 consistently demonstrate that the petitioner's ancestors belong to the "**Halbi**" caste. Therefore, we do not find substance in the contention of the learned Assistant Government Pleader that the petitioner failed to demonstrate that she belongs to the "Halbi" caste.

(12) This takes us to the next submission, which is in relation to the affinity test and the rejection of the claim based on it. However, we do not find substance in the said finding as it appears to be contrary to the mandate laid down by the Hon'ble Apex Court in ***The Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s State of Maharashtra, 2023(2)Mh. L.J. 785***, as it was held that "*the affinity test cannot be termed as a litmus test, so the committee ought not to have rejected the tribe claim of the petitioner for the reason of not satisfying the affinity test.*"

(13) Thus, it appears that the findings recorded by the committee based on the two disputed documents of 1929 and 1949 and the applicability of the affinity test, ignoring the 10 pre-constitutional era documents, are contrary to the mandate laid down by the Hon'ble Apex Court as referred above. Therefore, in our view, the said findings cannot be sustained in the eyes of the law.

(14) To sum up the above discussion, it is evident that the petitioner, to substantiate her claim, has relied upon 10 pre-constitutional era documents pertaining to her ancestors, wherein their caste had been recorded as "Halbi". The authenticity of those documents and entries made therein are neither disputed nor denied by the Vigilance Cell or the Committee. Therefore, there is no reason to disbelieve the said entries. The said entries, being a pre-constitutional

era, have more probative value. Thus, it seems that the findings recorded by the Committee are based on the 02 disputed documents, which were denied by the petitioner and have no relevance to the petitioner. As such, the findings recorded by the Committee appear to be contrary to the documents on record and the law laid down by the Hon'ble Apex Court. Based on the said findings, the impugned order cannot be sustained in the eyes of the law, and the same is liable to be quashed and set aside.

(15) In the aforesaid background, in our opinion, the committee has erred in not granting the validity in favour of the petitioner. That being so, we deem it appropriate to pass the following order:-

- a. The Writ Petition stands allowed.
- b. The impugned order dated 31/07/2024, passed by the respondent No.1 Committee, is hereby quashed and set aside.
- c. It is hereby declared that the petitioner belongs to the "**Halbi**" Scheduled Tribe.
- d. The respondent No.1 Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of production of a copy of this judgment.
- e. Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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