



N THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7804 OF 2017

Raju S/o. Namdeorao Kedare,
Aged about 49 years, Occu.: Service,
R/o. Anwar Pura, Achalpur City, Amravati. **... 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 Head Master, Rashtriya Secondary & Higher Secondary School, Achalpur, District – Amravati. **... RESPONDENTS**

Mr. Ashwin Deshpande, Advocate for the Petitioner.
Mr. S.S. Hulke, A.G.P. for Respondent No.1.

CORAM : NITIN W. SAMBRE AND
MRS. VRUSHALI V. JOSHI, JJ.
JUDGMENT RESERVED ON : 08.01.2025.
JUDGMENT PRONOUNCED ON : 04.02.2025

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.

2. Being aggrieved by the order dated 29.07.2017 passed by the respondent No.1 – Scheduled Tribe Caste Scrutiny Committee, Amravati

thereby invalidating the tribe claim of the petitioner of belonging to 'Halba/Halbi' Scheduled Tribe, the petitioner has filed this petition.

3. The petitioner has applied for verification of caste certificate to the respondent – Committee through respondent No.2 – School on 17.07.2014. The petitioner along with the application form submitted a total of 17 documents of belonging to Halba community. The documents since 1917 are produced by the petitioner. The School Leaving Certificate of real grandfather dated 02.07.1917, copy of School Leaving Certificate of real uncle dated 12.04.1948, copy of Birth Extract of the grandfather dated 12.06.1938, School Leaving Certificate of his father dated 25.06.1945, copy of Issar Chithi dated 23.07.1948 and copy of Property Card dated 03.01.1949. All these documents are of pre-independence era.

4. The learned Counsel for the petitioner has stated that instead of considering those documents, the respondent has relied on the report submitted by the Vigilance Cell. Vigilance Cell has produced three documents relating to paternal cousin uncle and grandfather of pre-independence era, which mentioned the caste as 'Koshti'. The claim was also invalidated on the ground that the affinity is not matched. The learned Counsel for the petitioner has stated that though the petitioner has denied the relationship with the said persons instead of considering the documents produced by the petitioner, the Committee has relied on the documents

which are denied by the petitioner and rejected the claim. Hence, prayed to set aside the order passed by the respondent No.1 by allowing the petition.

5. The respondents have not filed reply.

6. The learned A.G.P. relying on the order of the Committee has stated that the three documents which are of pre-independence era show the caste of cousin uncle and the grandfather as 'Koshti'. The names of the said persons are mentioned in the genealogical tree. The affinity test is also not matched. Hence, the respondent No.1 has rightly rejected the claim.

7. Heard both the learned Counsel.

8. The petitioner has filed total 17 documents in support of his tribe claim. He has filed pre-independence documents, which are the School Leaving Certificate of real grandfather dated 02.07.1917, copy of School Leaving Certificate of real uncle dated 12.04.1948, copy of Birth Extract of the grandfather dated 12.06.1938, School Leaving Certificate of his father dated 25.06.1945, copy of Issar Chithi dated 23.07.1948 and copy of Property Card dated 03.01.1949. The respondent No.1 has failed to consider the said documents. Instead of considering the said documents submitted by the petitioner, the respondent - Committee has relied on the documents which were produced by the Vigilance Cell and without considering the reply given by the petitioner whereby the relations with

those persons are denied whose documents were submitted by the Vigilance Cell, rejected the tribe claim. The petitioner in his reply to the Vigilance Cell report on 02.02.2017 has clarified in relation to the document of his grandfather dated 25.09.1941 whereby his caste is mentioned as Koshi which is produced by the Vigilance Cell, that he has already produced the birth extract of his grandfather dated 12.06.1938 where his caste is mentioned as Halbi.

9. It appears that the documents which are filed by the petitioner are of pre-independence era and showing the caste as Halbi. The caste of the grandfather of the petitioner mentioned as Halba is proved through documents submitted by the petitioner, therefore, there is no question of considering the document of cousin uncle whereby the caste is mentioned as Koshti, when the documents belonging to grandfather of the petitioner supports Halba caste.

10. Another ground of rejecting the tribe claim is that the affinity test is not matched.

The Hon'ble Apex Court in *Civil Appeal No.2502/2022 (Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.)* has already observed that the affinity test was not a litmus test to decide such claim and it was not an essential part in the process of determination of correctness of the tribe claim.

11. As the documents on record shows that the petitioner belongs to Halbi caste, there is no question of relying on the affinity test. The Committee has not applied its mind while considering the documents filed by the petitioner. As the documents itself are sufficient to prove that the petitioner belongs to Halbi caste, the order passed by the respondent No.1 is required to be set aside. Hence, we pass the following order :

- i] The petition is allowed.
- ii] The order dated 29.07.2017 passed by the respondent No.1 – Scheduled Tribe Caste Scrutiny Committee, Amravati invalidating the caste claim of the petitioner is hereby quashed and set aside.

12. Rule is made absolute in aforesaid terms. No order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)