



{1}

wp 3952,08 R.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3952 OF 2008

Yashwant s/o. Motiram Suryawanshi,
Age 42 years. Occ. Service,
R/o. Kunte Road, Opp. School No. 12,
Amalner, Tq. & Dist. Jalgaon.

.. Petitioner.

VERSUS

1. The State of Maharashtra
through the Secretary
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Caste
Certificate Verification Committee,
through its Chairman/Director,
Nasik Division, Nasik.
3. The Education Officer (Secondary)
Zilla Parishad, Nasik.
4. The President / Secretary,
Nasik Shikshan Prasarak Mandal
Education Society,
J.S. Rungta High School, Near Ashok Stambh,
Nasik.
5. The Head Master,
P.E. School and Aarambh Mahavidyalaya,
Near Bytco, Nashik Road, Nasik.
6. The Deputy Director of Education,
Nashik Region, Nasik.
(amended as per order dated 8.5.2013)

.. Respondents.

Mr. A.S. Golegaonkar, Advocate for the petitioner,
Mr. N.S. Tekale, AGP for respondent Nos. 1 to 3 and 6

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

**RESERVED ON : 22ND MARCH, 2024.
PRONOUNCED ON : 5TH APRIL, 2024.**

JUDGMENT [PER S.G. CHAPALGAONKAR, J] :-

1. The petitioner approached this court under Article 226 of the Constitution of India impugning the order dated 14.5.2007 passed by the Scheduled Tribe Caste Certificate Verification Committee – Respondent No.2, thereby invalidating the Tribe Claim of the petitioner for “Thakur Scheduled Tribe”.

2. Mr. A.S. Golegaonkar, learned counsel for the petitioner submits that the petitioner belongs to “Thakur Scheduled Tribe”. The competent authority has issued the tribe certificate to that effect. While the petitioner was prosecuting his studies, his caste certificate was referred to the Committee which was supported by the School admission Record of the petitioner and his father. The real paternal cousin of petitioner, namely, Vinod Vasantrao Suryawanshi has been conferred with the validity certificate. He filed affidavit in support of the genealogy. As many as 19 documents were placed before the Committee that justify the caste claim of the petitioner. However, the Committee invalidated the

petitioner's claim for erroneous reasons.

3. Mr. N.S. Tekale, learned AGP appearing for respondent Nos. 1 to 3 and 6 supports the impugned order. He would submit that school record relied by the petitioner depicts caste entry as "Hindu Thakur" in the name of petitioner's father. Although, Vinod Vasantrao Suryawanshi i.e petitioner's cousin is granted validity, Committee found it sans supporting evidence. The petitioner was required to establish his claim on the basis of documentary evidence and affinity test, which he failed. Therefore, the Committee is justified in invalidating the claim.

4. We have considered the submissions advanced by the learned advocates for the respective parties. We have perused the documents annexed to the writ petition and original file received from the committee. The record shows that the petitioner had submitted as many as 19 documents in support of his claim. The document at Sr. No. 17 as referred in Committee's order depicts caste validity certificate has been in favour of Vinod Vasantrao Suryawanshi, on 24.3.2000. He tendered an affidavit dated 6.12.2003, containing the genealogy. Petitioner's father has also tendered an affidavit dated 2.10.2002 containing genealogy. The original file received from the Committee shows that School Leaving Certificate of petitioners father Motiram Sahadu Suryawanshi is filed. Said entry appears have been taken on 6.6.1947, as "Hindu Thakur". The Committee referred the aforesaid documents in the order, however, declined to rely observing that caste is recorded as "Hindu Thakur" and not as "Thakur -Scheduled Tribe". The Committee declined to rely upon the validity certificate granted in favour of Vinod Vasantrao Suryawanshi, observing that it has been issued

on the basis of observations of the High Court, However lateron such observations are discarded by the Apex Court. The Committee has further observed that the applicant failed in the affinity test. The report of the Vigilance Officer do not support the petitioner's claim for "Thakur Scheduled Tribe".

5. Pertinently, there is no dispute as regards to the school admission entry of the petitioner's father which records his caste as "Hindu Thakur". The said entry is recorded in year 1947. The record placed before the Committee, either on behalf of the petitioner or by the Vigilance Officer do not show any contra entry that hurdles petitioner's tribe claim. The Supreme Court in the matter of ***"Ku. Madhuri Patil Vs. Additional Commissioner, Tribal Development and others"*** reported in ***(1994) 6 SCC 241*** observed in para. 10 as under :-

"Entries in school register preceding Constitution do furnish great probative value to the declaration of the status of a caste. Hierarchical caste stratification of Hindu social order has its reflection in all entries in public record. What would, therefore, depict the caste status of the people inclusive of the school or college records, as the then census rules insisted upon"

6. In the light of the aforesaid observations, the school admission entry of petitioner's father recorded in the year 1947 fetch great probative value. It depicts the caste status as "Hindu Thakur" therefore, such a document assumes significance in deciding the caste status of the petitioner. The Committee discarded such a significant evidence observing that the caste entry as "Hindu Thakur" is not analogous to "Thakur Scheduled Tribe.", appearing at Sr. No.44 in the Presidential Order. It is difficult to countenance with the observations of

the committee. “Hindu Thakur” is not a caste. “Hindu” would refer to religion. Therefore, only because the word “Hindu” is suffixed to the entry of Thakur Tribe, in the school record of the petitioner’s father, such entry would not loose significance.

7. Mr. Tekale learned AGP appearing for the respondent would submit that entry as “Hindu Thakur” in the school record of the petitioner’s father cannot be equated with the entry of “Thakur Scheduled Tribe” appering in the Presidential order. However, he fairly concedes that “Hindu Thakur” is not a caste recognized any where and word “Hindu” may be reflection of the religion.

8. We are, therefore, of the considered view that the pre-constitutional entry in the school record of the petitioner’s father could have been accepted as material piece of evidence in support of the petitioner’s claim for “Thakur Scheduled Tribe”. Apart from the aforesaid pre-constitutional document, the petitioner has placed reliance on the caste validity granted in favour of Vinod Vasantrao Suryawanshi, his paternal cousin. The genealogy placed on record of the committee, in the form of affidavit submitted by Vinod Suryawanshi depicts the paternal blood relation of the petitioner. The genealogy or the relationship of the petitioner with Vinod Suryawanshi is not disputed. The Vigilance Report is not adverse on this point. Therefore, fact remains that the petitioners paternal blood relative has already been conferred with the status of “Thakur Scheduled Tribe”. The reasons incorporated by the Committee for declining to rely on the said validity are absolutely perverse. The Division Bench of this Court in the matter of ***Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee***

reported in 2010 (6) Mh.L.J. 401.

observed as under :-

“We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.”

9. Considering the aforesaid observations of the Division Bench of this Court, when the petitioner relies upon the caste validity certificate conferred upon the blood relative, the committee could not have not declined to rely upon the same unless it is shown that such certificate is the product of fraud or issued without following the due procedure of law. However, from reasoning recorded in committee's order, no such finding is discernable.

10. In the present case, the nothing is brought before us to demonstrate that the validity certificate granted in favour of Vinod Vasantrao Suryawanshi is unreliable or liable to be discarded for any of the aforesaid reasons. Admittedly, the Validity certificate issued in favour of Vinod is still intact and no steps have been taken by the Committee for revocation of such certificate. In that view of the matter, the order passed by the committee is unsustainable in law. The petitioner is entitled for issuance of validity certificate. Hence, we proceed to pass the following order :-

{7}

wp 3952,08 R.odt

ORDER

[i] The Writ petition is allowed;

[ii] The impugned order dated 14.5.2007 issued by the Scheduled Tribe Caste Certificate Verification Committee, Nasik Division, Nasik (Respondent No.2) is hereby quashed and set aside;

[iii] The respondent No.2- Committee is directed to issue Validity Certificate in favour of petitioner as belonging to “Thakur Scheduled Tribe” within a period of four weeks from the date of this order.

[iv] Writ petition stands disposed of accordingly.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-