



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2716 OF 2022

Ashwin Rajednra Parate

..... Petitioner

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. R. K. Mendadkar for the Petitioner

Mrs. P.J.Gavhane, AGP for the State

**CORAM: S.V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : JUNE 24, 2022

P.C.

1 Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2 The caste claim of the Petitioner as Halba, Scheduled Tribe is invalidated.

3 The learned Counsel for the Petitioner submits that not a single contra entry exists. The only ground on which the caste claim of the Petitioner is invalidated, is that the documents prior to 1950 have not been produced. So also, the Petitioner does not reside at a place where Halba, Scheduled Tribe resides. The learned Counsel further

submits that for affinity test, the statements of the persons from maternal side are recorded. Same is also improper. It is further submitted by the learned Counsel for the Petitioner that the affinity test is not the litmus test. Reliance is placed on the judgment in the case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims & Ors. (2012) 1 SCC 113*.

4 The learned AGP submits that the Petitioner could not prove the affinity test. The pre-constitutional documents are not placed on record. The Petitioner also does not belong to the area where normally Halba, Scheduled Tribe resides. The Petitioner failed in the affinity test.

5 We have considered the submissions.

6 Upon perusal of the judgment delivered by the Committee, it appears that since 1969, the documents of the family members of the Petitioner record the caste as Halba. Said list is as under:

Sr. No.	Name of the student	Caste / Sub Caste	Date of admission in school	Relation with the Applicant
1	Ashwin Rajendra Parate	Adivasi Halba	04.06.2001	Applicant
2	Sweeti Rajendra Parate	Hindu Halba	22.07.1993	Sister
3	Rashmi Rajendra Parate	Hindu Halba	02.06.1997	Sister
4	Rajendra Narayan	Halba	23.07.1969	Father

	Parate			
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7 It would appear that the entries in the school record of the Petitioner, his father and sister since the year 1969 records the caste as Halba. The Scrutiny Committee / Vigilance Cell could not find any contra evidence nor there is any reference that the entries are not genuine or interpolated.

8 Affinity test is not a litmus test as held in the case of Anand (supra). The area restriction is also removed.

9 Considering the long standing entries in the school record of the Petitioner's relatives and the Petitioner of Halba and that not a single contra entry exists, the impugned order is quashed and set aside.

10 The Committee shall issue validity certificate to the Petitioner of Halba, Scheduled Tribe.

11 Rule accordingly made absolute. No costs.

(S. M. MODAK,J.)

(S.V. GANGAPURWALA, J.)