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wp 11904.21 R.odt

**THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11904 OF 2021

Jayesh S/o. Ravindra Thakur,
Age 32 years, Occ. Student,
R/o. Gat No. 523/C, Plot No.1,
Varsha Colony, Jalgaon,
Tq. & Dist. Jalgaon.

.. Petitioner

Versus

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai – 32
through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar,
Division, Nandurbar,
through its Member Secretary

.. Respondents

Mr. Sushant Yeramwar, Advocate for the petitioner
Mr. N.S. Tekale, AGP for respondents.

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

DATE : 25th JANUARY, 2024.

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

1. Heard. Rule. Rule made returnable forthwith. Heard finally
with the consent of learned advocate for the parties.

2. The petitioner has approached this court under Article 226 of the Constitution of India, thereby impugning the order dated 20th August 2021 passed by the Scheduled Tribes Certificate Scrutiny Committee, Nandurbar, thereby invalidating the tribe claim of the petitioner for “Thakur Scheduled Tribe”.

3. Mr Sushant Yeramwar, learned advocate appearing for the petitioner would submit that the petitioner belongs to “Thakur” scheduled Tribe. The competent authority i.e. Sub-Divisional Officer, Jalgaon issued caste certificate in favour of the petitioner certifying that he belongs to Thakur scheduled tribe. While petitioner was pursuing his education, the proposal for verification of caste certificate issued to the petitioner has been forwarded to the respondent No.2 - Committee which is duly supported by affidavit containing genealogy, the caste validity granted in favour of the petitioner’s cousin namely Atul Prakash Thakur and many other old documents since 1933 supporting the claim of the petitioner. The petitioner was served with a show cause notice alongwith vigilance enquiry report dated 21st February 2005. The petitioner filed his detailed reply clarifying the adverse remarks. However, the committee invalidated his caste claim for erroneous reasons.

4. Mr. N.S. Takale, learned AGP appearing for respondent Nos. 1 and 2 supports the impugned order contending that the Committee has recorded adequate reasons for discarding validity granted to cousin of the petitioner. Further, there is no other acceptable evidence to justify the caste claim of the petitioner.

5. We have considered the submissions advanced by learned advocates appearing for the parties. We have perused the original file pertaining to the caste claim of the petitioner, so also, the caste claim of Atul Prakash Thakur who is conferred with the caste validity. Apparently, the petitioner relies upon the caste validity granted in favour of Atul Prakash Thakur. The genealogy is tendered alongwith the affidavit of Atul Prakash Thakur which clearly indicates that Atul is the cousin of the petitioner. The vigilance report or the observations of the Committee nowhere doubts the correctness of the genealogy or relationship between the petitioner and Atul. Apparently, Atul is the close blood relative of the petitioner who is conferred validity under order of the competent authority dated 26th October 2004. Till this date the validity granted in favour of Atul Prakash Thakur is not subjected to any proceeding for revocation or cancellation.

6. We have perused the original file granting validity in favour of Atul Prakash Thakur. We find that the vigilance inquiry was carried and report of such inquiry was procured by the committee before issuing caste validity in favour of said Atul. There were no adverse remarks as regards the caste claim. At this stage, it would be apposite to refer to the observations of the supreme court of India in the matter of ***Apurva Vinay Nichale versus state of Maharashtra reported in 2010 (6) Mh. L.J. 401*** which reads thus :-

“7. 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.”

7. In view of the aforestated observations of the Supreme Court of India, there is no reason for us to enter into deeper inquiry when the petitioner has placed reliance on validity granted in favour of Atul who is cousin of the petitioner. Apparently, there is no dispute as regards relationship of the petitioner with Atul. It is trite that in case the Committee is of the opinion that earlier validity granted to the blood relation of the claimant is tainted with fraud or misrepresentation, the Committee is entitled to discard such validity certificate from its consideration and the claimant in such case will have to independently establish his caste claim. However in the present case, we find that Atul is granted validity almost 20 years back and till this date no such clouds of doubt regarding his validity could be raised. The Committee has simply observed that it would like to have legal opinion on the aforesaid aspect. However, the committee does not record that any fraudulent aspects were noted in the matter of validity certificate conferred upon Atul.

8. In a recent judgment of the Supreme Court of India in the case of *Maharashtra Adivasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others*, AIR 2023 Supreme Court 1657 which deals with grant of validity in respect of Thakur Schedule Tribe, it is observed that when the applicant relies upon the caste validity certificate issued to the blood relative, the committee must ascertain whether the certificate

is genuine. Secondly, the scrutiny committee will have to decide whether applicant has established his blood relation with validity holder and whether the caste validity to the blood relative is granted after following due procedure. In our opinion, all the aforesaid parameters appears to be complied in caste claim of Atul. Therefore, the scrutiny committee was under mandate to grant caste validity to petitioner based on validity accorded to Atul. On perusal of the order passed by the Committee, we find that the observations of the committee are nothing but mere surmise and there were no valid reasons for discarding the validity granted in favour of Atul as evidence in case of the petitioner.

9. Resultantly, the writ petition succeeds. We pass the following order :-

ORDER

[A] The writ petition is allowed;

[B] The impugned order passed by the respondent No.2 - Committee dated 20th August, 2021 invalidating the Tribe Claim of the petitioner is hereby quashed and set aside;

[C] The respondent No.2 – Committee is directed to issue certificate of Caste Validity for Thakur Scheduled Tribe in favour of the petitioner within a period of one month from the date of receipt of this order;

[D] Rule made absolute in above terms with no orders as to costs.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-