



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4551 OF 2011

Dhananjay Amrut Sonawane,
age 48 yrs, Occ. Service,
R/o Javkhedesim, Post Nipane,
Tq. Erandol, Dist Jalgaon

Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Through it's
Member Secretary.
2. Collector, Jalgaon
District Jalgaon.
3. Sub Divisional Officer,
Amalner, Tq. Amalner,
Dist. Jalgaon.
4. The Taluka Magistrate (Tahsildar),
Jalgaon, Dist. Jalgaon.

Respondents

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WITH
WRIT PETITION NO.4553 OF 2011
WITH

CIVIL APPLICATION NO.10488 OF 2019
IN WP NO.4553 OF 2011

Neha d/o Liladhar Sonawane,
age 18 yrs, Occ. Education,
R/o Khedi (Bhokri), Tq. Chopda,
Dist Jalgaon
at present R/o Swami Vivekanand Nagar,
New Sangvi, Pune-27.

Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Through it's Member Secretary.
2. Sub Divisional Officer, Amalner, Tq. Amalner, Dist. Jalgaon.
3. Maharashtra Institute of Technology (Engineering College) Kothrud, Pune 38, Through its Principal.

Respondents

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WITH

WRIT PETITION NO.4554 OF 2011

Nivedita d/o Liladhar Sonawane,
age 24 yrs, Occ. Education,
R/o Khedi (Bhokri), Tq. Chopda,
Dist Jalgaon
at present R/o Swami Vivekanand Nagar,
New Sangvi, Pune-27.

Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Through it's Member Secretary.
2. Sub Divisional Officer, Amalner, Tq. Amalner, Dist. Jalgaon.
3. Padmashri Dr. Vithalrao Vikhe Patil College of Engineering, Vilad Gat, P.O. MIDC, Ahmednagar – 414 111. Through it's Principal.

Respondents

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Advocate for the Petitioner : Mr. M.S. Deshmukh
AGP for Respondents : Mr. P.S. Patil
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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Reserved on : January 18, 2024

Pronounced on : February 02, 2024
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COMMON JUDGMENT :- (Per S.G. Chapalgaonkar, J.)

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

2. The petitioners have approached this Court under Article 226 of the Constitution of India impugning a common order dated 28.3.2011 passed by the Scheduled Tribe Scrutiny Committee, Nandurbar, thereby invalidating tribe claim of the petitioners as belonging to “Tokre Koli” Scheduled Tribe.

3. Mr. M.S. Deshmukh, learned advocate appearing for the petitioners would submit that petitioners are belonging to “Tokre Koli Scheduled Tribe” and Competent Authority issued caste certificates to that effect. Proposal of the petitioners for verification of Tribe claim were forwarded to respondent no.1-Committee. The Committee caused vigilance inquiry as well as affinity test. The petitioners were served report of vigilance cell with show cause notice which was duly replied. The petitioners supported their claim by voluminous evidence in the form of validity certificates granted in favour of

blood relations conferring the tribe status as “Tokre Koli”. However, the Committee, on erroneous count, invalidated caste claim of the petitioners. Mr. Deshmukh would invite attention of this Court towards validity certificates issued in favour of Hina Vijay Sonawane dated 16.10.2006, Sanjay Amrut Sonwane dated 28.3.2008, Sumit Jagdish Sonwane dated 5.2.2007, Amit Jagdish Sonwane dated 25.1.2007, Swati Jagdish Sonawane dated 15.1.2007 as well as Genealogy depicting relationship with validity holders to contend that many close relations of the petitioners are already conferred with validity of Tribe claim as belonging to “Tokre Koli”. All those validity certificates are intact and never being subjected to any proceeding like recall or revocation. The Committee based on some contra entries like “Koli” or “Hindu Koli” in the record of some blood relations of the petitioners proceeded to invalidate claim of the petitioners dehors established legal position.

4. Mr. Deshmukh would invite attention of this Court to the reasoning adopted by the Committee and submit that no specific finding is arrived that the caste validity conferred upon blood relations of the petitioners was product of fraud, misrepresentation or intentional suppression of material facts. On the other hand, he would point out that all contra entries were before the Committee when the validity is conferred upon Hina, Swati, Amit, Sumit and Sanjay, who are blood relatives of the petitioners from the paternal side. To buttress his contentions, Mr. Deshmukh would rely upon the observations of Supreme Court in case of **Apoorva d/o Vinay Nichale Vs.**

Divisional Caste Certificate Scrutiny Committee no.1 and others reported in [2010 (6) Mh.L.J. 401] to contend that in absence of findings of the Committee that caste validity relied upon by the petitioners are either fraudulent or lacks necessary procedure; the Committee could not have ignored the same. He would submit that mere non-disclosure of any contra entry would not constitute fraud to discard the validity conferred on blood relations.

5. Per contra, Mr. P. S. Patil, learned AGP appearing for the respondents would submit that the Committee has relied upon many contra entries which were suppressed by the validity holders while prosecuting their caste claim before the Committee. He would invite attention of this Court to the Chart referred in the Vigilance Cell report. Particularly, entry in the name of Shamrao Budho Koli dated 9.9.1940 and Amrut Budho Koli dated 23.6.1941 indicating that the father of petitioner Dhananjay and grand father of petitioner Neha and Nivedita were shown to be belonging to 'Hindu Koli' at the time of admission in the school in the year 1940 and 1941 respectively. Many entries of post independent period (Era) in relation to blood relatives are indicative of the caste as Hindu Suryawanshi Koli. He would therefore submit that earlier validity in favour of blood relations of petitioner does not assume significance while appreciating their claim. Mr. Patil, in support of his contentions, relies on the observations of the Supreme Court of India in case of **Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar and others reported in [(2008) 9 SCC 54]** and **Pournima Suryakant Pawar Versus State of**

Maharashtra reported in (2013) 3 SCC 690 and Maharashtra Adivasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra reported in 2023 (2) Mh.L.J. 785.

6. We have considered the submissions advanced by the learned advocates appearing for respective parties. We have perused original record of the proceeding before the Committee. The learned AGP made available record in respect of the validity holders whose certificates are relied upon by the petitioners. Pertinently, petitioners have supported their claim by the validities conferred upon many blood relatives. All those validities are issued during the period from 2006 to 2008. None of the validity certificate is subjected to review or revocation till this date. There is no dispute about the relationship of the petitioners with the validity holders particularly of Hina Vijay Sonawane, Sanjay Amrut Sonwane, Sumit Jagdish Sonwane, Amit Jagdish Sonwane and Swati Jagdish Sonawane. The Supreme Court of India in the Case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others** in Civil Appeal No.2502 of 2022 (supra) observed in paragraph no.22 thus :-

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's case (1994) 6 SCC 241 or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the

applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an inquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due inquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil (1994) 6 SCC 241, the examination will be whether the inquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due inquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”

7. Applying aforesaid principles of law when we examine the original file in respect of validity holder i.e. Hina Vijay Sonawane, we find that the validity certificate has been

issued by the Competent Committee established under the provisions of Act of 2000. Similarly, report of Vigilance Cell was procured. The Committee relied upon the validity granted in favour of distant relative namely Sahebrao Chuna Patil (Sonawane) as well as Jagdish Shamrao Sonawane. Pertinently, claim of Jagdish Shamrao Sonawane has been upheld by order of this Court in Writ Petition No.1704 of 1993, Committee had also referred applicant Hina to affinity test. It can be seen that the contra entry in respect of school record of Amrut Budha Sonawane i.e. grand father of Hina and Vijay Amrut Sonawane i.e. father of Hina records caste as “Hindu Koli”. It was before committee during the said inquiry. The Committee after considering the positive and contra evidence issued validity certificate to Hina .

8. Perusal of the observations of the Committee in present case shows that validity granted to Hina was discarded from consideration since it was granted based on validities granted prior to 1994 i.e. before the judgment of the Supreme Court in case of Madhuri Patil. In our opinion, such observations of the Committee cannot be sustained. The Hon’ble Supreme Court of India in case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no.1 and others (supra) specifically observed in paragraph no.7 thus :-

“7. We thus come to the conclusion that when during the course of inquiry 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. Applying aforesaid principles of law, unless it is observed by committee that the caste validity of blood relative relied upon by the claimants was product of fraud or misrepresentation or outcome of procedural defect, couldn't have been discarded from consideration. When we balance validity already granted in favour of blood relations of the petitioners with so-called contra entries which were relied by the Committee, in case of petitioners, we hold that the validity relied by petitioners ought to have been given due credence. In the present case, the petitioners have relied upon more than six validity certificates granted to the close blood relations which are intact till this date. Although, learned AGP relying upon the observations of the Supreme Court of India in the case of **Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar and others reported in (2008) 9 Supreme Court Cases 54** (supra) submitted that when earlier validity certificate is granted ignoring vital evidences, the Committee can arrive at different conclusion, we do not find that such observations of the Supreme Court of India has any application in the facts of the present case. As we have noted that even contra entries relied upon by the Committee in the present case were before the Committee while granting validity in favour of Hina and other blood relatives and committee after considering such contra evidence issued validity to Hina. Therefore, now it is not open for the Committee to take different stand than what has been

taken in case of Hina in the year 2006. Resultantly, we find that the Committee committed patent illegality while invalidating the caste claim of the petitioners. Hence, we proceed to pass the following order.

ORDER

- i. Writ Petition nos.4551 of 2011, Writ Petition No.4553 of 2011 and Writ Petition No.4554 of 2011 are hereby allowed.
- ii. The common order passed by the respondent no.1-Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region, Nandurbar dated 28th March, 2011 is hereby quashed and set aside.
- iii. Respondent no.1 Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region, Nandurbar shall issue caste validity certificates in favour of the petitioners for “Tokre Koli” Scheduled Tribe within a period of one (1) month.
- iv. Writ Petitions are accordingly disposed off. Rule is made absolute in above terms.
- v. Pending civil application/s, if any, also stands disposed off.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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