



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4636 OF 2019

Balaji Janardan Pullewad,
Aged about 49 years, Occ. Agriculturist,
R/o. Sangnapur, Post Nandappa,
Tah. Jiwati, Dist. Chandrapur.

. . . PETITIONER

...VERSUS..

1. State of Maharashtra through its
Secretary, Ministry of Social Justice
and Tribal Welfare Department,
Mantralaya, Mumbai-400032.
2. Scheduled Tribe Case Certificate Scrutiny
Committee, Gadchiroli through its
Deputy Director/Member-Secretary
3. Collector, Gadchiroli.
4. Tahsildar, Jiwati, District Gadchiroli.

. . . RESPONDENTS

Shri N. C. Phadnis, Advocate for petitioner.
Mrs. K. R. Deshpande, A.G.P for respondent nos. 1 to 4/State.

CORAM :- A. S. CHANDURKAR AND
AMIT B. BORKAR, JJ.

DATED :- 06.06.2022

JUDGMENT (PER : AMIT B. BORKAR, J.) :-

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

3. The petitioner has approached this Court for quashing and setting aside the impugned order dated 17.05.2019 passed by respondent no. 2-Committee thereby rejecting the petitioner's claim as belonging to "Koli Mahadeo" (Scheduled Tribe). The petitioner has also sought a declaration that he belongs to "Koli Mahadeo" (Scheduled Tribe). As such, he is entitled to grant of validity certificate from respondent no. 2-Committee.

4. It is the case of the petitioner that he belongs to "Koli Mahadeo" (Scheduled Tribe), and he obtained a caste certificate as belonging to "Koli Mahadeo" (Scheduled Tribe). His claim was forwarded to the Scrutiny Committee for verification. He had tendered voluminous evidence, including the documents of the pre-constitutional period and validity certificate in favour of his cousin paternal uncle issued by the Scrutiny Committee. The Scrutiny Committee in the first round invalidated the Scheduled Caste claim of the petitioner by order dated 24.09.2001. The said invalidation order was challenged in Writ Petition No. 4183/2001, which was allowed, and the matter was remanded back to the Scrutiny Committee for deciding afresh.

5. After the order of remand, the Scrutiny Committee, after complying with the procedure and calling the Vigilance Cell report, again invalidated the claim of the petitioner, holding that the pre-

constitutional document relied upon by the petitioner (translation) does not mention the year of the document. The Scrutiny Committee also held that the caste certificate issued in favour of the cousin paternal uncle had been disbelieved, holding that the petitioner failed to prove his relationship with him. The said order is the subject matter of challenge in the present petition.

6. Learned Advocate for the petitioner submitted that once again, the Committee has committed an error of jurisdiction in not considering the pre-constitutional document produced by the petitioner. He submitted that the petitioner had placed on record at Sr. no. 37 an agreement entered into by the paternal grandfather of the petitioner, which mentioned his caste as "Koli Mahadeo". He submitted that the Caste Scrutiny Committee failed to consider the aforesaid document, which has great probative value. He also submitted that the petitioner had placed before the Committee validity certificate issued in favour of the paternal cousin uncle – Gopal Pullewad. According to the petitioner, he had demonstrated the relationship between the paternal cousin uncle through genealogy, which was verified by the Vigilance Cell.

7. Perusal of the impugned order would reveal that the Scrutiny Committee, in its usual manner, has referred to catena of

judgments of the Hon'ble Apex Court and High Court and has reproduced paragraphs after paragraphs of the said judgments. On scrutinising the documents on record, the Committee, insofar as a document at Sr. No. 37, dated 05.05.1948, is concerned; it has disbelieved the said document holding that in translation, neither the date nor the year of the document is mentioned. However, on consideration of the document, it appears that the year of the document is specifically mentioned in the centre of the document. If this is so, the finding recorded by the Scrutiny Committee to disbelieve the pre-constitutional document is factually incorrect. Therefore, it was obligatory for the Scrutiny Committee to consider a pre-constitutional document.

8. In the decision of the Apex Court in the case of ***Anand Vs. Committee for Caste Scrutiny and verification of tribe claim [(2011) 6 Mh.L.J. SC 919]*** makes it clear in paragraph no. 22 that while dealing with documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of caste as compare to post-independence documents.

9. The petitioner had also placed on record the validity certificate issued in favour of the paternal cousin uncle of the petitioner, whose favour caste validity certificate was issued on 28.06.2011 by the Aurangabad Committee. The said validity certificate is not considered holding that name of Gopal Pullewad does not appear in the genealogy submitted by the petitioner. The petitioner has placed on record genealogy which is part of the Vigilance Report. Page no. 77 of the Annexure to the present petition is genealogy which bears the name of Gopal Pullewad as paternal cousin uncle of the petitioner.

10. Perusal of the impugned order would reveal that the Committee has completely ignored the judgment of this Court in the case of *Apoorva Vinay Nichale Vs. Divisional Commissioner Caste Scrutiny Committee [(2010) 6 Mh.L.J. 401]*. The Division Bench of this Court in the above case categorically held that if a blood relative has been granted a validity certificate earlier, then such a candidate can be granted a validity certificate without calling for Vigilance Cell Report unless and until the certificate granted to the blood relative is found to be tainted by fraud and generated without jurisdiction. The Committee, without recording findings of fraud or without jurisdiction, did not fit it necessary to attach any weight to the certificate of validity granted by the Scrutiny Committee and on a spurious ground that the name of a person along with other persons does not appear in the genealogy

submitted by the petitioner. As held earlier, the said finding is factually incorrect.

11. For the reasons stated above, we have no hesitation in holding that the petitioner has conclusively established his claim for "Koli Mahadeo" (Scheduled Tribe) on the basis of the document having probative value. There is no occasion for the Scrutiny Committee, in view of the decision of the Apex Court in the case of **Anand** (supra), to raise a doubt to hold that the petitioner has failed to establish his claim regarding his caste. Therefore, the order passed by the Scrutiny Committee invalidating the claim of the petitioner for "Koli Mahadeo" (Scheduled Tribe) cannot be sustained. The same will have to be quashed by granting a declaration that the petitioner has established his claim, on the basis of the document produced on record, for "Koli Mahadeo" (Scheduled Tribe).

12. In the result, we pass the following order:-

- i) The Writ Petition is allowed.
- ii) The order dated 17.05.2019 passed by Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli, is hereby quashed and set aside.
- iii) The claim of the petitioner for "Koli Mahadeo" (Scheduled Tribe) is held to be valid.

iv) The respondent no. 2-Committee is directed to issue a caste validity certificate to the petitioner within a period of two weeks from the production of this order.

v) Pending application, if any, stands disposed of accordingly.

Rule is made absolute in the above term.

(AMIT B. BORKAR, J.)

(A. S. CHANDURKAR, J.)

RR Jaiswal