



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
WRIT PETITION NO.1290 OF 2023**

Ashwini Sachin Bokade @ Ashwini
Manikrao Hedau, Aged about 36
years, Occupation Home Maker. R/o
Plot No.47, Survey Layout, Behind
Chota Tajbag, Raghuji Nagar, Nagpur
440024

Petitioner

-Versus-

1. Vice Chairman and Joint
Commissioner, Scheduled Tribe
Caste Certificate Scrutiny
Committee, Amravati.
2. Sub-Divisional officer, Tah Achalpur,
District Amaravati.

Respondents

Mr.C.S.Dhore, counsel for the petitioner.
Mr.A.A.Madiwale, AGP for the respondents.

**CORAM: A.S.CHANDURKAR AND
VRUSHALI V. JOSHI, JJ.**

DATE : 21st AUGUST, 2023

ORAL JUDGMENT (Per : Vrushali V.Joshi,J.)

Heard.

2. Rule. Rule made returnable forthwith. The petition is
heard finally with the consent of the learned counsel for the
parties.

3. The petitioner has challenged the order dated 18.08.2022 passed by the respondent No.1 Scheduled Tribe Caste Scrutiny Committee, Amravati, thereby invalidating the caste certificate of petitioner to be belonging to 'Halbi' Scheduled Tribe.

4. The petitioner has applied for Caste Validity Certificate as she want to apply for employment after completion of M. Tech degree, forwarded an application through the Principal of the College on 26.02.2019 with all documents including the original Caste Certificate to the respondent Committee for verification and issuance of validity certificate. On the basis of the admission register of her great grandfather late Shrawan Halbi, whose date of birth is of 01.01.1915 mentioned in transfer certificate caste as 'Halbi'. Petitioner's father's school transfer certificate also mentions the caste as 'Halbi' which is of year 1973 and other documents in support of 'Halbi' caste.

5. The respondent Scrutiny Committee recorded the statement of father of the petitioner, but has not given the report. Therefore, the petitioner has filed the writ petition and this Court has directed the respondent Scrutiny Committee to decide the Tribe claim of the petitioner within a period of

Kavita.

three months. As the respondent failed to decide the caste claim within three months, the petitioner has filed Contempt Petition No.149 of 2022 and after receiving the notices in contempt petition, the respondent has passed the order rejecting the caste claim of the petitioner.

6. The respondent Committee has accepted that Laxman is the grandfather of the petitioner but refused to accept his school leaving certificate of the year 1927 in which the caste 'Halbi' is mentioned. As the Vigilance Committee failed to verify the same from school records. The School Authority had pointed out that the document being a very old one, the record is not available. On the basis of findings of the Vigilance Committee her claim is rejected. The respondent has not considered pre-independence era documents and rejected the caste claim. The explanation given by the petitioner during her statement is not considered by the respondent. Hence, the order of the Scrutiny Committee is challenged by the petitioner.

7. The respondent No.1 opposed the petition stating that after conducting the detailed inquiry, the Vigilance Committee found the adverse entries recorded as 'Koshti' in the name of Shankar Shrawan, the cousin grandfather of the

Kavita.

petitioner and Manik Laxman Shrawanji entries are of the year 06.08.1934 and 27.03.1953. The entries are of pre-independence era having great probative value. The petitioner herself admitted the above adverse 'Koshti' entries are from her family. The respondent has considered the document admitted by the petitioner. Considering the report of Vigilance Cell has rightly invalidated the Tribe claim by recording the findings. The pre-constitutional documents i.e. birth certificate of late Shri.Shrawan, birth extract of dated 01.01.1915. In this regard the petitioner has not submitted any other document or revenue document in order to corroborate the pre-constitutional evidence submitted by her. This document reflects one single entry not supported to any other documents or record of the school or revenue.

8. The Scrutiny Committee also relied upon the judgment delivered by this Court in the Case of ***Bhagwan Kawduji Gaurkar ..Vrs. State of Maharashtra in Writ Petition No. 5076 of 2012 decided on 11.02.2013***. In which it is observed that the contention that 'Koshti' is not a word indicating the Caste or Tribe as already been rejected by this Court as also by the Hon'ble Apex Court. Relying on this judgment, the respondent prayed to dismiss the writ petition.

9. Heard the learned counsel appearing for the petitioner as well as learned Assistant Government Pleader for respondent. Perused the original record. The document on which the petitioner has relied on is the pre-constitutional document, i.e. 25.04.1927. It is the school leaving certificate and extract of school register of great grandfather Laxman Shrawan. The oldest document is of 'Halbi'. The school leaving certificate of Laxman Shrawanji is a document of the year 1929, in which the date of birth is mentioned as 01.01.1915 and caste as 'Halbi' and the other relevant documents of 1960, 1956 are also of 'Halbi' caste. These documents have been verified by the Vigilance Cell. The document on which the Vigilance Committee relied on is of one Laxman Shrawanji dated 27.03.1953 and it is the document of entry of the birth of one daughter and 'Koshti' is mentioned there. The pre-constitutional documents of 1927 and 1929 with the entry "Halbi" carry great probative value.

10. The affinity test is held not to be a litmus test by the Hon'ble Supreme Court in the case of **Mah.Adiwasi Thakur Jamat Swarakshan Samiti Vs.The State of Maharashtra and ors.** reported in **2023(2) Mh.L.J.785.** That test cannot be the determinative factor. The overall

material on record has to be taken into consideration. We are satisfied that on the basis of the material before the Scrutiny Committee the petitioner's claim stands substantiated.

11. Considering the family tree and the oldest documents which are of Halbi caste, it is proved that the petitioner belongs to 'Halbi' caste. The Scrutiny Committee misdirected itself by failing to take into consideration pre-constitutional documents. It has also given undue weightage to the affinity test. Thus for the aforesaid reasons, the order passed by the Scrutiny Committee is required to be set aside. It is declared that the petitioner has proved that she belongs to 'Halbi' Scheduled Tribe. The Scrutiny Committee shall issue validity certificate to the petitioner within a period of three weeks. Till the date of receiving such validity certificate, she is free to rely upon the copy of this judgment to show that the claim of the petitioner of belonging to 'Halbi' Scheduled Tribe has been validated.

12. Rule is made absolute in the aforesaid terms. No costs.

(VRUSHALI V. JOSHI, J)

(A.S.CHANDURKAR, J)