



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

WRIT PETITION NO.7096/2023

Rashmi d/o Vinayak Wankhade
Aged: 19 yrs, Occu: Student
R/o Malipua Kholipura Gate,
Taluka- Amravati, Amravati 666401

....PETITIONER

...VERSUS...

1. State of Maharashtra
through the Secretary
Department of Social
Justice and Empowerment
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Amravati Division, Amravati
through its Chairman
Office: Morshi Road, Irwin Chowk,
Amravati.
3. Nuta Kanya School and Junior College,
H.S.C.V.C. Jog Square,
Amravati, through its Principal

...RESPONDENTS

Shri P.S. Khubalkar, Advocate for petitioner
Shri N.R. Patil, AGP for respondent Nos. 1 and 2/State

CORAM : ANIL S. KILOR AND
SMT. M.S. JAWALKAR, JJ..

DATE OF RESERVING THE JUDGMENT : 12/03/2024
DATE OF PRONOUNCING THE JUDGMENT: 15/03/2024

JUDGMENT (PER : SMT. M.S. JAWALKAR, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with the consent of Shri P.S. Khubalkar, learned Counsel for petitioner and Shri N.R. Patil, learned AGP for respondent Nos.1 and 2/State.

3. The challenge in the present petition is the order dated 13/09/2023 passed by the respondent No.2 Caste Scrutiny Committee, by which petitioner's claim for 'Thakur' Scheduled Tribe is invalidated. The petitioner is student and pursuing her first year of Computer Engineering Diploma at Dr. Punjabrao Deshmukh Girls Polytechnic College, Amravati. She claims to belong to 'Thakur' caste which is Scheduled Tribe enlisted at Sr. No.44. The competent authority Sub Divisional Officer, Amravati

has already issued certificate in favour of petitioner. Her tribe claim was forwarded by the College on 05/04/2022 to the respondent No.2 Committee along with requisite documents by the petitioner. In support of her caste claim, the petitioner has submitted the caste validity certificate of her father viz. Vinayak Babarao Wankhede showing his caste 'Thakur', same Committee i.e. respondent No.2 has issued caste validity certificate to the father of the petitioner dated 05/04/2019. The Tribe claim of father was validated on the basis of various documents of high probative value. Apart from validity certificate of her father, she has placed following documents which are of the period prior to 1947:

Name	Relation	Document	Date of document	Caste
Babarao Dashrath Wankhede	Grandfather of petitioner	School leaving certificate	16/06/1937	Thakur
Babarao Dashrath Wankhede	Grandfather	Extract of the admission register	05/04/1940	Thakur
Dashrath Thakur	Great grandfather	Extract of the admission showing entry of birth issued by the Collector, Amravati	03/09/1928	Thakur

4. As such, petitioner has submitted sufficient documents to establish her claim that she belongs to 'Thakur' Scheduled Tribe. It is also pointed out that the basis on which it is held by the Caste Scrutiny Committee that somebody by name Dashrath Ganpat Narayan was belong to 'Bhat'. However, due explanation to the said show cause was given by the petitioner at page 78 paragraph No.B, she has explained in respect of these documents. She pointed out that Dakhal Kharij Register of one Dashrath Ganpat cannot be connected to his grandfather as birth place of his grandfather was not Lasanapur and it was Malipur, Kolhapuri Gate in Amravati. Village Lasnapur is in different Taluka. So far as document dated 01/02/1934 is concerned, with respect of entry of birth of girl child to Dashrath Ganpat was also not related to petitioner's ancestors, since no girl child was ever born to Dashrath which can be seen from the genealogy attached with the vigilance cell report. There was only one son to Dashrath, by name Babarao. Both these documents are not connected to the

petitioner.

5. We have heard learned Counsel for petitioner as well as learned AGP for respondents Scrutiny Committee. There is no justifiable reasons to take any view specifically when the validity certificate in favour of father was issued by the same Committee. As held in *Apoorva d/o Vinay Nichale Vs. Divisional Committee, 2010(6) Mh.L.J. 401*, the validity certificate ought to have been granted in favour of the petitioner. In para 7 of the said judgment, it is held as under:-

"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."

It is also held that,

“the matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore, where a committee has given a finding about the validity of the caste of a candidate, another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it.”

In the present matter, same Committee issued the validity certificate to the father of the petitioner. Moreover, there is no plea of fraud being played on Committee.

6. Thus, the order passed by the learned Scrutiny Committee is without any application of mind, unreasonable and cannot sustain in the eye of law. The petitioner has duly established that she belongs to ‘Thakur’ Scheduled Tribe and entitled for caste validity certificate. Accordingly, we proceed to pass the following order:

ORDER

- 1) Writ Petition is allowed.
- 2) The order dated 13/09/2023 passed by the respondent No.2/ Schedule Tribe Certificate Scrutiny Committee, Amravti Division, Amravati, in Case No. सआ / अजप्रतस / अम / 5 / 503 / Edu/042022/205593 is hereby set aside.
- 3) It is declared that the petitioner belongs to 'Thakur' Scheduled Tribe which is entry No.44 in the Constitution (Scheduled Tribes) Order, 1950.
- 4) The Schedule Tribe Caste Certificate Verification Committee, Amravati Division, Amravati shall issue validity certificate to the petitioner within a period of four weeks from today.
7. Rule is made absolute in above terms. No costs.

JUDGE

R.S. Sahare

JUDGE