



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5369 OF 2019

Ku. Sankuli D/o Satish Parate,
Age-20 years, Occ. Student,
R/o. 66/3, Om Colony, Near
Siddhi Vinayak Temple,
Arni Road, Yavatmal

..... PETITIONER

// **VERSUS** //

1. Committee for Verification of Tribe
Certificate, Amravati,
Chaparasipura, Amravati,
Through its Member Secretary.

2. P Wadhwani College of Pharmacy,
Yavatmal, Dist. Yavatmal through
its Principal

.... RESPONDENTS

Shri K.S. Narwade, Advocate for petitioner.

Mrs. Ketki Joshi, Government Pleader for the respondent no.1.

CORAM : SUNIL B. SHUKRE AND
ANIL S.KILOR, JJ.

DATED : 1st September, 2021.

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

Heard.

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

3. Invalidation of caste claim of the petitioner as “Halbi” is under challenge in this petition.

4. For appropriate consideration and appreciation of the controversy involved in this petition, the brief facts which emerge from the petition, are stated as under :

5. When the petitioner was studying in 12th standard, her caste claim as ‘Halbi’, alongwith voluminous documents was forwarded to the Scrutiny Committee i.e. respondent no.1, for verification. The respondent no.1 thereupon called the vigilance cell report wherein some adverse entries were found, relying upon such entries the caste claim of the petitioner came to be rejected, which is the subject matter of this petition.

6. We have heard learned counsel for the respective parties.

7. The learned counsel for the petitioner, submits that the petitioner had submitted the pre-constitutional period documents on record, having entry “Halbi”. However, in view of one entry of the year 1906 which was mentioned in the police vigilance cell report, the pre-constitutional period

documents submitted by the petitioner were ignored and discarded.

8. It is submitted that no proper reasoning has been given for not considering the documents submitted by the petitioner of the year 1940 and 1903 relating to grand-father and great grand-father respectively.

9. On the other hand learned Government Pleader supports the impugned order passed by the Scrutiny Committee dated 31st May, 2019 and, submits that after considering the adverse entries found by the Police Vigilance Cell, the Committee has rightly rejected the caste claim of the petitioner. By arguing so, the learned Government Pleader prays for dismissal of the present writ petition.

10. To consider the rival contentions of the parties, we with the help of learned counsel, have gone through the record and perused the impugned order.

11. It is apparent on the face of record that the petitioner has submitted two documents relating to grand father Sadashiv Shriram Parate, dated 3rd April, 1940 and 31st March, 1954 and one document relating to great grand father

namely Shriram Munnuji, of the year 1903 having entries 'Halbi'.

12. Thus, there is no dispute that all these entries are relating to 'Halbi' and are of the year 1940 and 1903, i.e. the pre-constitutional period. However, while discarding these entries, the Committee has placed reliance on entry of 1906 in the name of Shriram Munnuji which is written in *modlipi* and allegedly have recorded the caste as "Rangari".

13. There are four documents which are referred in the police vigilance cell report and according to the Committee, all the four entries are adverse to the claim of the petitioner. The entries in the name of Dashrath Munnuji and Sitaram Munnuji of the year 1916 show caste as "Koshti". However, the petitioner has categorically submitted that these entries are not of the relatives of the petitioner and their names do not appear in the genealogical tree submitted by the petitioner with the Caste Scrutiny Committee. According to the petitioner, Dashrath Munnuji and Sitaram Munnuji are not connected and related with the petitioner.

14. On going through the genealogical tree, we find substance in the submission of the petitioner that name of

Dashrath and Sitaram do not find place in the genealogical tree. There is nothing on record to show that Dashrath and Sitaram are relatives of the petitioner. In the circumstances, no reliance can be placed on aforesaid two entries in the name of Dashrath and Sitaram.

15. As regards fourth entry in the name of Atmaram Shriram, it is of the year 1957 and the caste is recorded as “Koshti”.

16. This Court in case of Shri Datta Nilkantha Parate Vrs. State of Maharashtra and others in Writ Petition No. 5389 of 2004, has observed thus:

“From the aforesaid authority, it would reveal that persons belonging to Halba Tribe had migrated to west and taken service under the Gond Kings of Chanda. It can also be seen that some of them had taken to weaving and had amalgamated with one Koshti caste in Bhandara and Berar. Merely because some stray entries as “Koshti” are recorded in respect of caste of some of the relative of petitioners from their paternal side, the voluminous documentary evidence of pre-Constitution era which clearly certify the petitioners great-grand father and his brothers to be Halbi, could not have been lightly brushed aside by the Scrutiny Committee.

17. In the light of above referred well settled principle of law firstly such stray entry would not brush aside the pre-constitutional era documents produced by the

petitioner. Moreover, the aforesaid entry is of the year 1957 i.e not of pre-constitutional era. Hence, the said entry is not sufficient to reject the caste claim of the petitioner.

18. Further, we have no hesitation to hold that an entry of the year 1906 in the name of Shriram Munnuji, written in 'Modlipi' showing caste as 'Rangari' is not sufficient to dislodge the caste claim of the petitioner as 'Halbi', in light of two documents of the year 1903 and 1940, which supports the claim of the petitioner, as 'Halbi'.

19. In this case, it is clear that there are sufficient documents which were produced by the petitioner of pre-constitutional era i.e. of the year 1940 and 1903 which clearly show that the caste of great grand father and grand father of the petitioner, as 'Halbi'.

20. It is also clear from the impugned order that those entries were not considered in its right prospective, whereas, those entries are sufficient to grant validity certificate to the petitioner, in the light of the judgment in the case of Anand Vrs. Committee for Scrutiny and Verification of Tribe Claims and others reported in 2012(1) of SCC 113 wherein the Hon'ble Supreme Court has observed 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 a caste, as compared to post-independence documents.

21. Having observed so, we pass the following order.

ORDER

- i. The writ petition is allowed.
- ii. The impugned order dated 31st May, 2019 passed by the Respondent no.1 is hereby quashed and set aside.
- iii. The respondent-Scrutiny Committee is directed to issue validity certificate to the petitioner as she belonging to Halbi Scheduled Tribe within four weeks from the receipt of the order.
- iv. No order as to costs.

JUDGE

JUDGE

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