



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

WRIT PETITION NO.7247 OF 2024

Ku.Aarti Rameshrao Hedao,
age : 25 years, Occ. Student
R/o. Laxmi Nagar, Amravati

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.. Petitioner

Versus

- 1) The Scheduled Tribe Caste
Certificate Scrutiny Committee
through its Member Secretary,
Chaprasipura, Amravati
- 2) Govt. College of Engineering,
Amravati, through its Principal
- 3) State of Maharashtra
through Secretary General
Administration Department,
Mantralaya, Mumbai – 400 032

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.. Respondents

Mr. R.S. Parsodkar, Advocate for Petitioner.
Mr. S.M.Ukey, Addl. G.P. for respondents.

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

RESERVED ON : FEBRUARY 04, 2025

PRONOUNCED ON : FEBRUARY 12, 2025

ORAL JUDGMENT (Per : Abhay J. Mantri J.)

Heard. **Rule.** Heard finally, with the consent of the learned
counsel, appearing for the parties.

(2) The challenge is raised to the order dated 28/06/2023 passed by respondent No.1, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short '*the Committee*'), thereby invalidated the claim of the petitioner that she belongs to "**Halbi**" Scheduled Tribe.

(3) The petitioner claims that she belongs to "*Halbi*," a Scheduled Tribe. Accordingly, the Sub-Divisional Officer, Achalpur, issued a caste certificate in her favour on 01/10/2020. She has completed her engineering course in the electronics and telecommunications branch, but her final marksheet and other documents have been withheld. Therefore, she does not have the degree certificate and other documents.

(4) The petitioner submitted her caste certificate and the documents through the Principal, Government Engineering College, Amravati, to the respondent No.1 Committee for verification on 27/11/2020. The respondent No.1 Committee was dissatisfied with the documents and forwarded her proposal to the Vigilance Cell for a detailed enquiry. The Vigilance Cell thoroughly inquired into the matter and submitted the report to the Committee on 15/12/2022, observing that some adverse entries, i.e. "*Koshti*", had been found during the enquiry. Accordingly, the Committee issued a show-cause notice to the petitioner, calling upon her explanation about the said adverse entries

on or before 28/03/2023. The petitioner filed her explanation to the Committee on 28/03/2023, but the Committee has not considered the same and invalidated her claim that she belongs to "*Halbi*", a Scheduled Tribe, hence this petition.

(5) During the pendency of the petition, the petitioner passed the examination for the post of "Lower Grade Steno" (English) (non-Gazetted). Therefore, the Office of the M.P.S.C. Mumbai, as per the resolution dated 13/12/2024, asked her to submit all documents, including the caste validity certificate. Accordingly, she amended the petition.

(6) Mr. Parsodkar, learned counsel for the petitioner, vehemently contended that the petitioner, in support of her tribe claim, has produced 15 documents on record from 1944 to 2017 pertaining to her ancestors, wherein their caste had been recorded as "*Halbi*", Scheduled Tribe. During the hearing, the petitioner also produced the 1932 document pertaining to her great-grandfather and cousin great-grandfather before the Committee, wherein their caste had been recorded as "*Halbi*".

(7) He further submitted that during the Vigilance Cell enquiry, it had found documents of the years 1932, 1944, 1945, 1946, 1956

and 1960 about her great-grandfather, cousin great-grandfather and cousin grandfather wherein their caste had been recorded as "Halbi" and the oldest document is of 1932. He also pointed out the document of the year 1932; however, the Committee did not consider the same and gave undue weightage to the subsequent documents of 1934 and 1953 pertaining to one Shankar Shravan and Laxman Shravanji, wherein their caste had been recorded as "Koshti", said Shankar Shravan has no concern with the petitioner, but the Committee erred in relying on the said document and discarded the claim of the petitioner. Therefore, he submitted that the oldest entry of 1932, i.e., the pre-Constitutional era, has more probative value than the subsequent document.

(8) To buttress his submission, learned counsel for the petitioner has relied upon the judgments in **Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others** reported in **(2012) 1 SCC 113**, and **The Maharashtra Adiwasi Samaj Swarakshan Samiti V/s State of Maharashtra, (2023) 2 MHLJ, 785**.

(9) Learned counsel for the petitioner further canvassed that on 28/03/2023, the petitioner had submitted a reply/explanation to the show-cause notice along with documents of the years 1932 and 1929 pertaining to her great-grandfather and cousin great-grandfather and accordingly, in para 11 of the petition has categorically stated the said

fact. He drew our attention to the reply of the respondent Committee in para 10, wherein the respondent committee admitted that the petitioner had submitted 02 documents of 1932 and 1929 pertaining to her great-grandfather and cousin great-grandfather, wherein their cast had been recorded as "Halbi", but same was not considered, as they were not submitted along with the application. Therefore, the Vigilance Cell could not verify the authenticity of the said documents. The reply shows that the petitioner, while filing the explanation before the Committee, had submitted 02 documents. However, the Committee did not consider those documents. Consequently, he urged for allowing the petition.

(10) *Per contra*, Mr. Ukey, learned Additional Government Pleader, strenuously argued that during the Vigilance Cell enquiry, two adverse entries pertaining to the petitioner's cousin great-grandfather were found, wherein their caste had been recorded as "Koshti." Those entries are from the pre-independent era; therefore, the Committee rightly considered those entries and rejected the petitioner's claim.

(11) He further submitted that the petitioner failed to file a reply to the show-cause notice; therefore, the report and two adverse entries discovered by the Cell remained unchallenged, and there was no reason to discard the same. The entry of the 1932 document about

the great-grandfather and cousin great-grandfather of the petitioner does not corroborate the document discovered by the Vigilance Cell during the enquiry; therefore, said document is not helpful for the petitioner in support of her claim. The document of 1932 and the entry in that document are not helpful to the petitioner. Therefore, the Committee has rightly discarded the document.

(12) He further submitted that the documents produced by the petitioner are not helpful to her in support of her claim. Thus, the petitioner failed to discharge the burden cast upon her under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. Therefore, the order of invalidation passed by the Committee is just and proper and no interference is required in writ jurisdiction. Hence, he urged for the dismissal of the petition.

(13) To buttress his submissions, he has relied upon the decision in **Ansh s/o Kiran Gharat vs. The Schedule Tribe Committee, Nagpur, in Writ Petition No.2999/2024**, decided on 22/11/2024, and pointed out the observations in para 23 to 26 thereof.

(14) We have appreciated the rival contentions of the learned counsel for the parties and perused the impugned order and the judgments relied upon by the parties in support of their contentions. We have also gone through the original record and returned it.

(15) At the outset, it appears that the petitioner, in support of her claim, has produced 16 documents on record, out of which 03 documents are from the pre-Constitutional era of the years 1932, 1944 and 1946 pertaining to her great-grandfather and grandfather wherein their caste had been recorded as "Halbi". The vigilance report dated 15.12.2022 categorically referred to those documents. (page No. 50 of the original record.) Similarly, the Vigilance Cell has not disputed those documents of 1932, 1944 and 1946. However, the Committee neither considered nor dealt with the documents of 1932 and 1946, despite the petitioner producing them before the Vigilance Cell. The committee has not given any findings about the documents of 1932 and 1946. Those documents remained unchallenged. In fact, the Committee ought to have considered those documents while considering the petitioner's claim, but non-consideration of those documents by the Committee leads to drawing adverse inferences.

(16) It further appears that the Committee mainly relied upon 02 documents: one is of 1934 and pertains to one Shankar Shravan,

and the second is of 1953, concerning one Shankar Shravanji. We have considered the Genealogical tree (for short-*'Tree'*) given by the petitioner's father before the Vigilance Cell. In the said tree, Shankar's name does not appear as the legal heir of Shravan, but the Committee assumed him as the petitioner's cousin-great-grandfather. Similarly, we have perused the Vigilance Cell report, wherein the resident of the petitioner's ancestors was shown as Sawaipura Taluka Achalpur before 1950. However, the document on which the Committee is relying concerning one Shankar Shravan is shown to be a resident of Samraspura and not Sawaipura. However, the Committee has not dealt with this fact while considering the petitioner's claim. In fact, it was incumbent on the Vigilance Cell and the Committee to establish a relationship of Shankar Shravan with the petitioner. The Committee has not given any reason for relying on the said document when the petitioner categorically denied her relationship with Shankar. Furthermore, a discrepancy appears between the name of the village. The name Shankar Shravan is not mentioned in the petitioner's Tree. However, the Committee has not given any reason for considering the said document and thereby erred in discarding the petitioner's claim.

(17) The petitioner also produced documents of 1944 and 1946 pertaining to her grandfather and cousin's great-grandfather before the Vigilance Cell Committee. Similarly, during the enquiry, the Vigilance

Cell discovered documents from 1944, 1945, 1946, 1956 and 1960 pertaining to the cousins' grandfather and great-grandfather of the petitioner, wherein their caste had been recorded as "Halbi". However, the Committee has not considered those 05 documents of the pre-Constitutional era. On the contrary, the Committee has given undue importance to the document of 1953, which is subsequent in time and disputed document of 1934 of Shankar, wherein the caste of Laxman Shravanji and Shankar was mentioned as "Koshti". The Committee has not considered the explanation submitted by the petitioner by which she had denied her relationship with Shankar. In fact, it was incumbent on the Committee to consider the explanation of the petitioner, which was filed in time, and the genealogical tree while considering the document pertains to one Shankar, who is a resident of Samraspura.

(18) Moreover, it is pertinent to note that on 28/03/2023, the petitioner submitted a reply/explanation to the show-cause notice along with documents of the years 1932 and 1929 pertaining to the great-grandfather and cousin great-grandfather of the petitioner. The copy of the reply also depicts the acknowledgement of said reply by the respondent No.1 office. Besides, in paragraph 11, the petitioner categorically averred the fact. It is also noted that by filing a reply, the respondent Committee admitted that the petitioner had submitted 02 documents, i.e. 1932 and 1929, pertaining to her great-grandfather

and cousin-great-grandfather, wherein their caste had been recorded as "Halbi", but the same was not considered, as they were not submitted along with the application. The reply denotes that the petitioner while filing the explanation before the Committee, had submitted 02 documents. However, the Committee did not consider those documents.

(19) We have perused the explanation submitted by the petitioner. In the explanation, the petitioner categorically denied her relationship with Shankar Shravan, as she has no relationship with him. On the contrary, in the Tree, she categorically demonstrated that her great-grandfather Shravan had 03 sons, namely, Ganpat, Manya and Laxman. No name for Shankar is mentioned in the petitioner's genealogical tree. She also produced the document of 1932 before the Committee.

(20) Furthermore, on perusal of the Roznama dated 24/03/2023 of the proceedings before the Committee depicts that they asked the petitioner to submit her explanation on or before 28/03/2023 itself, but the Roznama did not reflect the submission of the explanation along with 02 documents by the petitioner before the Committee. The said conduct of the Committee itself appears capricious and arbitrary. As per the show cause notice, the petitioner was to submit her explanation by

28.03.2023. In such eventuality, the question of closing the proceedings for order on 24/03/2023 did not arise. Indeed, pursuant to the show-cause notice, the petitioner submitted an explanation by 28.03.2023. However, the committee did not consider her explanation and failed to discharge their duty. Moreover, a copy of the original explanation filed by the petitioner is not found in the original record. In fact, the Committee, in its reply before the Court, admitted acknowledgment of the said explanation with 02 documents. The petitioner submitted an explanation before the Committee, and accordingly, the inward clerk accepted the same. The said fact itself denotes that, as asked by the Committee, the petitioner has submitted her explanation before the Committee within the prescribed time.

(21) Thus, considering the above discussion, as well as the documents on record, it seems that the petitioner, to substantiate her claim, has produced 06 pre-Constitutional era documents from 1932 to 1946 pertaining to her great-grandfather, cousin-great-grandfather, grandfather, and cousin-grandfather wherein their caste had been recorded as "**Halbi**". It is a settled position of law that the oldest document has more probative value than the subsequent document. Therefore, in our opinion, the Committee has erred in discarding those documents and giving undue importance to the document of 1953 and the disputed document of 1934. Based on the said findings, the order cannot be sustained in the eyes of the law.

(22) The Hon'ble Apex Court in **Adivasi Thakur Jamat Swarakshan Samiti** (supra) has held that *"the affinity test cannot be termed as a litmus test. Likewise, the oldest pre-Constitutional documents have more probative value than the subsequent document."* Thus, it appears that the finding regarding the affinity test, based on the document of 1953, discarding the other 06 documents of the pre-Constitutional era, seems contrary to the mandate laid down by the Hon'ble Apex Court. Therefore, in our view, the said appears to be the settled position of the law.

(23) The judgment in **Ansh Gharat** (supra) relied on by the learned Additional Government Pleader, and the facts in the case at hand are distinct. Therefore, the observations made in paras 23 to 26 in the said judgment would not assist him in support of his contentions. On the contrary, the documents on record clearly depict that the petitioner belongs to "**Halbi**", a Scheduled Tribe.

(24) To sum up the above discussion, it is evident that the petitioner, in support of her claim, has relied upon 06 pre-Constitutional era documents from 1932 to 1946 pertaining to her great-grandfather, cousin-great-grandfather, grandfather and cousin-grandfather wherein their caste had been recorded as "Halbi". The authenticity of the said documents and the entries made therein are neither disputed by the

Committee nor by the Vigilance Cell. Therefore, there is no reason to discard the same, as they have a greater probative value. Thus, it seems that the finding recorded by the Committee is based on the disputed document of 1934, which has no relevance to the petitioner, and the subsequent document of 1953. Thus, it reveals that the finding recorded by the Committee seems to be contrary to the 06 documents on record and the law laid down by the Hon'ble Apex Court.

(25) As a result, based on the said findings, the impugned order cannot be sustained in the eyes of the law, and the same is liable to be quashed and set aside. In the above backdrop, we deem it appropriate to allow the writ petition in the following terms.

(26) The Writ Petition stands allowed.

(27) The impugned order dated 28/06/2023, passed by the respondent No.1 Committee, is hereby quashed and set aside.

(28) It is hereby declared that the petitioner belongs to the "**Halbi**" Scheduled Tribe.

(29) The respondent No.1 Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of production of a copy of this judgment.

(30) Respondent No.3 is directed to permit the petitioner to join the service till respondent No.1 Committee issues a validity certificate in her favour in terms of the communication dated 15/01/2025 on the basis of this judgment.

Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

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