



) -WP-11804-18.doc.

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2022.12.21
09:40:28
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11804 OF 2018

Sanket Suryakant Ghadge & Anr.

..Petitioners

Versus

State of Maharashtra & Ors.

..Respondents

Mr. Abhineet N. P., for the Petitioners.

Mr. N. C. Walimbe, AGP for Respondent Nos.1 to 3.

CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.

DATE : 19th DECEMBER, 2022

PC.

1. Heard.

2. The challenge is to the order impugned dated 30th August, 2018 passed by the respondent/committee whereby tribe claim of the petitioner as belonging to Thakar, Scheduled Tribe is invalidated.

3. Counsel for the petitioner has invited our attention to the validity granted in favour of blood relations, namely Tanaji Balku Ghadge – cousin grandfather, Sujata Sadashiv Ghadge – paternal aunt, so also Nilesh Tanaji Ghadge. According to him, the aforesaid validities are based on the oldest entries which are of 1918-19. He has relied on such entries from the documents which

BGP

1 of 4

are produced on record in the form of compilation.

4. He would urge that the respondent/committee while negating the claim has refused to consider the validity of blood relation on the ground that the Scheduled Tribe Pre-constitution Order entries demonstrate Hindu Bhat and Maratha as caste recorded in the documents. He would urge that on facts the said findings recorded are contrary. Our attention is specifically invited to the mutation entries in relation to Krishna Santu Thakar and Govinda Balku Thakar which are of 1918 i.e. oldest documents on record.

5. In view of above, on facts the findings recorded by the committee appears to be contrary to the record. Apart from above, in the order of validity issued by the respondent/committee on 27th March, 2002 in favour of Nilesh Tanaji Ghadge i.e. blood relation of the petitioner, the aforesaid documents pertaining to the period 1918-19 to 1925-26 in favour of Krishna Santu Thakar are already relied on.

6. It appears that while passing order impugned the respondent/committee has ignored the aforesaid entries of 1918-19 just because same were inconvenient for the committee to deal with. Apart from above, it has to be noted that the committee has relied on the other entries such as Hindu Bhat and Hindu Maratha in the caste column of the various blood relations. Similar was the

position even when the validity was ordered by the committee in favour of Nilesh Tanaji Ghadge. The committee while granting validity in favour of Nilesh Tanaji Ghadge has specifically dealt with the said issue of adverse entries in the caste column of blood relation of the petitioner.

7. In the aforesaid background, *prima-facie* it can be inferred that the committee is not consistent in the matter of appreciating same set of evidence when it comes for granting validity to the blood relation. The aforesaid stand on the part of the respondent/committee cannot be justified. Apart from above, the fact remains that the respondent/committee has directed the steps to be taken for cancellation of the validity certificates issued in favour of the validity holders referred above purely on the point of re-appreciation of the evidence. Such act on the part of the respondent/committee in absence of there being fraud practiced cannot be appreciated. It is not open for the respondent/committee to re-appreciate the same set of evidence in different view and proceed for cancellation of validity granted in favour of the other blood relation particularly when (a) the evidence which was available while granting validity was duly looked into including of adverse material and validity was granted; (b) in absence of fraud being practiced by the claimant and specifically to that effect a case was established, it is improper on the part of the respondent/committee to take a contrary view.

8. The respondent/committee, in our opinion, has failed to satisfy the above referred test and has merely just because on appreciation on the same set of evidence has taken a contrary view to that of the view already taken in the matter of grant of validity in favour of Nilesh Tanaji Ghadge.

9. As such, the order impugned passed by the respondent/committee on 30th August, 2018 is hereby quashed and set aside. We direct the respondent/committee to grant validity to the petitioner as that of belonging to Thakar, Scheduled Tribe, particularly, when the issuance of certificate in favour of other blood relations is very much brought to the notice of committee. The petition stands allowed in above terms.

10. Let the certificate of validity be made available to the petitioner within four weeks from today.

[SHARMILA U. DESHMUKH, J.]

[NITIN W. SAMBRE, J.]