



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2320 OF 2006

Babarao s/o Manikrao Padalwar

..PETITIONER

VERSUS

The State of Mah. & ors.

..RESPONDENTS

Mr S.M. Vibhute, Advocate for the petitioner;

Mr K.G. Patil, AGP for respondent no.1;

Mr M.S. Deshmukh, Advocate for respondent no.2.

CORAM : P.V. HARDAS AND

S.P. KUKDAY, JJ.

DATE : 21st January, 2008

PER COURT :

. This petition challenges the order passed by the respondent - Scrutiny Committee, dated 14.9.2005 invalidating the tribe claim of the petitioner as belonging to "Mannerwarlu" - Scheduled Tribe. The claim of the petitioner as belonging to "Mannerwarlu" - Scheduled Tribe came to be referred by the Divisional Controller, Maharashtra State Road Transport Corporation, Aurangabad by communication dated 7.1.2004.

2. In support of his claim that the petitioner belongs to "Mannerwarlu" - Scheduled Tribe, the petitioner had placed reliance on various documents which included the validity certificates granted by the

Committee to the close blood relatives of the petitioner as belonging to "Mannerwarlu" - Scheduled Tribe. The Committee has invalidated the tribe claim of the petitioner on the ground that the school record of the father of the petitioner and uncle of the petitioner discloses that the caste recorded was that of "Munurwar" and not "Mannerwarlu" and consequently, despite the validity granted to the close relatives of the petitioner, the claim of the petitioner came to be invalidated. The Committee also proceeded to invalidate the tribe claim of the petitioner as belonging to "Mannerwarlu" - Scheduled Tribe on the ground that the Committee had heard the petitioner and whatever answers the petitioner had given or whatever material was available, the petitioner had failed to prove his affinity and ethnic linkage to "Mannerwarlu" - Scheduled Tribe.

3. Mr Vibhute, learned Counsel appearing on behalf of the petitioner has urged before us that the respondent - Scrutiny Committee has not taken into consideration the validity certificates granted to the close relatives of the petitioner. It is also urged before us that the vigilance cell had not conducted home inquiry and consequently the findings recorded by the respondent - Scrutiny Committee stand vitiated. Mr M.S. Deshmukh,

learned Counsel appearing on behalf of the respondent - Scrutiny Committee has submitted before us that the validity certificates granted to close relatives of a candidate have persuasive value and cannot supersede the certificates or the documents denoting the caste recorded; either of the petitioner himself or his father. In this case, it is submitted by Mr Deshmukh, learned Counsel for the respondent - Scrutiny Committee, that as the certificates of the father of the petitioner and uncle of the petitioner clearly indicated that the caste which was recorded was "Munurwar" and not "Mannerwarlu" and the Committee was justified in ignoring the validity certificates granted to the relatives of the petitioner. It is further urged before us that the officers of the vigilance cell who were conducting the inquiry had afforded opportunity to the petitioner and his father for recording their statements, but the father of the petitioner as well as the petitioner had not shown their inclination for recording their statements and had not cooperated the vigilance cell.

4. With the assistance of learned Counsel appearing on behalf of the respective parties, we have perused the findings recorded by the respondent - Scrutiny Committee and we have also perused the report of the vigilance cell. The report of the vigilance cell clearly indicates

that the school record pertaining to the father of the petitioner shows that the caste which is recorded is "Munurwar". Similarly, the school record of the uncle of the petitioner also indicates that the caste which was recorded was "Munurwar". It is true that the petitioner had filed documents to indicate that the close relatives of the petitioner had been given the validity certificates. It is urged by Mr Vibhute, learned Counsel appearing on behalf of the petitioner that though the caste which was recorded in the case of his relatives was "Munurwar", yet they had been granted the validity certificates as belonging to "Mannerwarlu" Scheduled Tribe.

5. Validity certificates granted to close relative of a candidate certainly have persuasive value. However, the validity granted to the relatives of a candidate cannot, in law, supersede the primary documents, namely the certificates or the documents denoting the caste either of the candidate himself or his father, or relatives on the paternal side. In the present case the school record of the father of the petitioner and the uncle of the petitioner clearly disclose that the caste which was recorded was "Munurwar" and not "Mannerwarlu". In such circumstances, the validity granted to the relatives cannot in law supersede the conclusive

documentary evidence denoting the caste to the contrary. An incorrect certificate granted to a relative cannot, in law, be pressed into aid to urge before the Court that despite the primary documents being against the caste claim set up by the candidate, yet the validity certificate should be issued to a candidate. In the present as we have pointed out above, the primary documents relating to the caste of the petitioner and the father and uncle of the petitioner clearly indicate the caste to the contrary. The explanation tendered by the petitioner that the caste of his father and his uncle came to be incorrectly recorded in the school record on account of illiteracy of the grand-father of the petitioner is an explanation, which according to us is extremely farfetched and cannot be accepted.

6. In respect of non conducting of the home inquiry, the report of the vigilance cell clearly indicates that opportunities were made available to the petitioner and his father for recording their statements. The record also indicates that they had not cooperated the vigilance cell in the conduct of the home inquiry. This aspect of the matter, however, has been denied by the petitioner in his reply which he has submitted by alleging that such opportunity was never made available. In any event, we need not dilate on this aspect of the matter as we have

held that on the basis of the record or the answers given by the petitioner, the respondent Scrutiny Committee has arrived at the conclusion that the petitioner had failed to establish his affinity and ethnic linkage. In any event, the report of the vigilance cell in respect of the home inquiry would have persuasive value and would not supersede the primary and the conclusive documents regarding the proof of caste of the petitioner on the basis of the certificates/documents of his father and other elders in the family.

7. After giving our anxious consideration to the submissions advanced before us by the learned Counsel appearing on behalf of the petitioner, we are of the considered view that no case for interference in the findings recorded by the respondent - Scrutiny Committee is made out. There is no perversity in the reasoning of the respondent - Scrutiny Committee to warrant any interference with the findings of the Scrutiny Committee in exercise of writ jurisdiction of this Court and consequently the writ petition which is sans merit is summarily dismissed with no order as to costs.

[S.P. KUKDAY, J.]

[P.V.HARDAS, J.]

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