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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO: 4287/2000

BALAJI MARUTIRAO AKULWAR

..PETITIONER

V E R S U S

The State of Maharashtra
and another

..RESPONDENTS

...

Shri V.G.Sakolkar, Adv.for petitioner
Shri Deshmukh, Adv.for respondent no.2

...

CORAM: A.B.NAIK, J.
DATED: 19th DEC. 2001.

PER COURT :

Heard Shri V.G.Sakolkar, Adv.for petitioner. The petitioner's social status as "Mannerwarlu" Scheduled Tribe, was referred to the respondent no.2 -Committee for the purpose of verification, by the Principal, Yeshwant Mahavidyalaya (Junior College), Nanded on 25th October 1999.

2. After the receipt of the reference from the Principal of the College, the res.no.2-Committee sent notice to the petitioner and called upon him to adduce evidence in support of his tribe claim. Pursuant to the said notice, the petitioner has produced as many as 29 documents. Those documents were subsequently handed over to the Vigilance Cell for further enquiry and report. Accordingly, the Vigilance Officer conducted an enquiry and submitted his report. The



report indicates that the Primary School record of the father of the petitioner, do not indicate any reference to the caste; only "Hindu" religion was mentioned. The service record of the petitioner's father was also inspected by the Police Vigilance Cell and it was found that the first page of the Service Book of the petitioner's father, the caste initially mentions as "Munurwar" but subsequently it was written as "Mannerwarlu". The copy of the report was served to the petitioner to which the petitioner did not file an explanation; though the report was served on the petitioner vide notice dated 16th March 2000. On considering the documents on record, the Scrutiny Committee found that the petitioner has not produced any basic record, such as, school record, extract of births and deaths or any other authentic document to show that he belongs to "Mannerwarlu" Scheduled Tribe. Considering the documents which were produced on record, the Committee held that the petitioner could not prove that he belongs to "Mannerwarlu" Scheduled Tribe. The only reliance placed by the petitioner on the Service Book of his father, was discarded and accordingly the finding has been recorded by the Committee that the petitioner failed to establish that he belongs to "Mannerwarlu" Scheduled Tribe. The Committee by its order dated 15th May 2000 invalidated the caste certificate issued in favour of the petitioner by the Executive Magistrate, Degloor on 29th October, 1997 certifying that the petitioner belongs to "Mannerwarlu" Scheduled Tribe.

3. The above-said order dated 15th May 2000 is challenged by the petitioner. Shri V.G.Sakolkar, learned counsel for the petitioner, contended that the Committee has not considered the relevant documents which throw light on the fact that the petitioner belongs to Scheduled Tribes "Mannerwarlu". He contended that the seniority list in respect of his father, was produced on record, and at Sr.No.170 the name of the petitioner's father is recorded, and as against his father's name though caste "Mannerwarlu" is not mentioned, the words "Scheduled Tribe" ^{is} ~~are~~ mentioned. Shri Sakolkar, further contended the judgment in the case of Suresh Apaswar vs. State; delivered by this Court in Writ Petition No: 2979/1994, was produced on record to show that Suresh Apaswar, who is a relative of the petitioner, wherein this Court held that Shri Suresh Apaswar belongs to Mannerwarlu, S.T. has not been taken into consideration. The learned counsel contended that Suresh being a close relative of the petitioner, the Committee should have considered this judgment. Similarly, Shri Sakolkar contended that though other affidavits of near relatives were filed, were not considered by the Committee and, therefore, he contended that the finding recorded by the Committee that the petitioner did not belong to "Mannerwarlu" Scheduled Tribe, is not correct and valid.

4. I have given my anxious consideration to the submissions made by the learned Counsel for the petitioner. Shri Deshmukh, Adv. for respondent no.2-Committee has produced original record at the time of hearing. I have gone through the record.

5. The first page of the Service Book of the father of the petitioner, in fact, indicates the caste as "Munurwar". This caste was mentioned when the petitioner's father entered into service. Thereafter the caste, "Mannerwarlu" came to be recorded by encircling the original caste "Munurwar". The learned counsel was not able to satisfy this Court as to under whose authority and direction the caste is changed. I have also seen the affidavits which were filed in support of the petitioner's claim. On going through those affidavits, it is not possible for me to accept the contention of the learned counsel as the affidavits nowhere state the exact relation of the petitioner with those deponents, in as much as it only state that the petitioner is the near relative. On such unworthy documents, the caste claim cannot be decided. The caste claim has to be decided by the Committee on the basis of positive evidence produced before it and the burden of proof is on the petitioner and the party concerned, as the respondent no.2 Committee, has observed that the petitioner has not led any evidence on record. The old entry in the service record of the father of the petitioner is referred to as "Munurwar". Once that entry is made then no other person or authority has any jurisdiction to change the

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said caste. In view of the above said facts and in view of the law laid down by the Apex Court in the case of **State of Maharashtra vs. Milind and others** reported in 2001(1) SCC Page 4; the contention of the learned counsel cannot be accepted. Considering this aspect and the record produced before me I find that the Committee has rightly decided the matter. The present Petition is devoid of any merit. The same stands rejected.

Sd/-
for Dy. Reg

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AD-10-23
Assistant Registrar
High Court of Judicature of Bombay
Bench at Aurangabad

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