



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO.9843 OF 2023

Chakradhar Baburao Pitlewad,
Age 20 yrs., Occ. Education,
R/o Ramkhadak, Post – Bitnal,
Tq. Umri, Dist. Nanded.

... Petitioner

... Versus ...

- 1 Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter, Aurangabad.
Near Saraswat Bank, CIDCO Bus Stand,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad
Through its Member Secretary.
- 2 State Common Entrance Test Cell,
Maharashtra, Mumbai,
8th Floor, New Excelsior,
A.K. Nayak Marg, Fort, Mumbai.
Through its Commissioner &
Competent Authority.

... Respondents

...

Mr. M.S. Deshmukh, Advocate for petitioner

Mr. P.S. Patil, AGP for respondent No.1

Mr. N.S. Tekale, Advocate for respondent No.2

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 17th JANUARY, 2024

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 The petitioner challenges the invalidity of his caste claim by respondent No.1 by Judgment and order dated 02.08.2023.

3 The petitioner contends that he belongs to “Koli Mahadev” Scheduled Tribe. He had received the Tribe Certificate from competent authority on 07.01.2016. He was prosecuting study and, therefore, the Principal of his college submitted proposal with respondent No.1 on 20.06.2023 for verifying and issuing validity in respect of the same. The petitioner appeared and submitted documents before respondent No.1 – Committee. Vigilance Cell inquiry was conducted. Report was forwarded to the petitioner on 24.07.2023. He has filed say explaining the circumstances and the documents relied by him as well as the alleged contra entries. In spite of production of documents and explanation, that has been given, his caste validity has been negated. It is also submitted that the Judgment of

respondent No.1 suffers from legality. The well settled principles of law laid down by this Court as well as Hon'ble Supreme Court have not been considered. The petitioner, therefore, prays for issuance of appropriate writ for setting aside the Judgment and order passed by respondent No.1 and to declare him as belonging to 'Koli Mahadev' Scheduled Tribe and direction to respondent No.1 to issue the validity certificate.

4 Heard learned Advocate Mr. M.S. Deshmukh for the petitioner, learned AGP Mr. P.S. Patil for respondent No.1 and learned Advocate Mr. N.S. Tekale for respondent No.2.

5 Learned Advocate for the petitioner has taken us through the documents which the petitioner had produced before the Scrutiny Committee and made submissions. It has been contended that the oldest documents have also not been considered by respondent No.1. The school record of the uncle is of 11.07.1977 and then it is held that there are erasers and insertion. The school record of other uncle was perused by respondent No.1 and it is said that word 'Mahadev' has been inserted later on. In fact, the said word was in existence since inception, but it appears that it has been re-written just to have consistency in the name of the caste as per the Constitution of India. It was not brought before the Committee that the petitioner had ever played

any role in the insertions. The documents were coming from a proper custody and, therefore, those ought to have been accepted. It is further submitted that respondent No.1 has unnecessarily made observations about census. The reliance of the Committee on census of 1971 was misconceived in respect of Section 15 of Census Act, 1948. He relied on the Writ Petition No.13550 of 2023 decided by this Court on 30.10.2023, wherein it has been observed that in view of Section 15 of the Census Act, 1948 the entry in the census register was not admissible in evidence. The report of the Vigilance Cell inquiry does not show that the Research Officer has made any adverse remark. Therefore, it ought to have been held that the petitioner has proved his claim even by applying test of affinity. The documents in the nature pertaining to the real uncle Lalaji @ Mukund i.e. his school admission form, general administration register, documents pertaining to uncle, second degree uncle Pundlik Narayan ought to have been considered by the Committee.

6 Per contra, the learned AGP submits that there was no validity certificate in the family issued earlier and, therefore, respondent No.2 was justified in considering the matter in detail. The documents ought to have been relied and the oldest one of Lalaji @ Mukund would show that word 'M' has been written in different handwriting as it differs from word 'Koli'.

Similarly, the entries in respect of uncle Pundlik and Pandurang show that word 'Mahadev' has been written later on. Even if we ignore the observations in respect of area restriction and the affinity; yet, the documents produced by the petitioner were not sufficient to support his claim and, therefore, the Judgment passed by respondent No.1 - Committee is legal.

7 The first and the foremost fact to be considered is that the petitioner should establish his claim on the basis of certain documents, on its own. Thereafter the question would be – Whether he supports his claim with the fact that some of his near relatives or the person in the family has received the validity certificate ? Thereafter, the further things would come as regards the area restriction and affinity test. Here, the petitioner appears to have come with a case that there is no validity certificate in favour of member of his family. In such circumstance, respondent No.1 was justified in calling upon the Vigilance Cell report.

8 The petitioner is relying on the admission form of his real uncle Lalaji @ Mukund Maroti Pitlewad. Coloured photo copy has been produced along with the petition and in the File of respondent No.2 also we could find the document. However, we are unable to get as to how this document Annexure 'D' was obtained by the petitioner. It does not have any stamp of

the school. It is said to be the admission form, but the alleged signature is in the same handwriting and in fact, whether it can be said to be a signature itself, is a question. Word 'Mukund' has been scored and above it word 'Lalaji' has been written. Though it is said that the student who was seeking admission i.e. Lalaji Maroti Pitlewad is 'Hindu Koli Mahadev'; yet, the authenticity of this document cannot be cross checked. The petitioner has not come with a case that he had obtained the said document under the Right to Information Act. If that document would have been collected by the Vigilance Cell Officer, then, how a copy of the same could have been received by the petitioner, is also another question. On the said document the authority has not stated or endorsed that the student was admitted to school on the basis of the said application. At the cost of repetition, it can be said that the document does not bear any endorsement on behalf of the school.

9 The next document is in respect of second degree uncle Pandurang and in the File of the petitioner there is similar document of Pandurang's real brother Pundlik. However, it can be seen that there are erasers and corrections. Though there are initials or signature, in respect of correction, yet the question would be – When the said correction was made and why it was made ? The corrections and insertion of word 'Mahadev' below the word 'Koli' is in different handwriting. Therefore, these documents

have been rightly not accepted by respondent No.1. In absence of a clear document coming on record to support the contention of the petitioner, we do not find any illegality or error committed by respondent No.1.

10 There cannot be a dispute as regards the interpretation of Section 15 of the Census Act, 1948. The observation to that effect of respondent No.2 might be wrong, but it was not the only ground on which the caste claim of the petitioner has been discarded. There are contra entries, which came on record through the Vigilance Cell inquiry. Those are in respect of the school record of Lalaji and Pundlik with Zilla Parishad School, Ramkhadak, Tq. Umri, Dist. Nanded as 'Koli'. The other documents produced by the petitioner are of recent years and, therefore, we are of the opinion that the Judgment and order passed by respondent No.1 cannot be said to be illegal. The petition is devoid of merits. Hence, the following order.

ORDER

1 The Writ Petition stands dismissed.

2 Rule is discharged.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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