IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 1598 Of 2024
With
Civil Application No.7597 Of 2024
In
Writ Petition No. 1598 Of 2024

Ganesh Maruti Yemulvad
Age : 41 years, Occ. Service,
R/o : Narnali
Tq. Khandar, Dist. Nanded. **...Petitioner**

Versus

1. The State of Maharashtra,
   Trough its Principal Secretary,
   Tribal Development Department
   Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Verification
   Committee, Aurangabad
   Through its Member Secretary.

3. The Education Officer (Primary),
   Zilla Parishad, Parbhani,
   Dist. Parbhani.

4. The Secretary/Headmaster
   Shri. Narsing Shikshan Pratishthan
   C/o Netaji Prathmik Vidyalya Sevak Nagar,
   Parbhani, Dist. Parbhani. **...Respondents**

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Mr. Sanket S. Kulkarni and Mr. M.B. Karande, Advocate for the Petitioner.

Mr. A.R. Kale, Addl.GP for Respondent Nos. 1 and 2/State.

Mr. B.A. Shinde, Advocate for Respondent No.3

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ..
DATE : 29 AUGUST 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard both the sides finally considering exigency in the matter.

2. The petitioner is challenging the judgment and order dated 04.12.2023 passed by the Scrutiny Committee, invalidating his tribe certificate of 'Koli Malhar' Scheduled Tribe.

3. Learned Counsel for the petitioner submits that though there was cogent material in the form of school record of petitioner's father and other relatives, the tribe claim was arbitrarily rejected. He would further submit that in reply filed to the vigilance report, petitioner had denied any relationship with the persons whose old record was pitted against him stating their tribe to be Koli.

4. Learned Counsel would further submit that the Committee considered irrelevant record. List of the relatives and the documents procured in the vigilance report were inconsistent. He would submit that the petitioner's grandfather was Tukaram and therefore record in the name of Khanderao should have been discarded. The school record of petitioner's father of the year 1984, was never confronted to him so as to accord any opportunity to explain it. Lastly, it is contended that the impugned judgment and order is liable to be quashed and set aside.

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5. Learned AGP supports the impugned judgment and order by placing on record the original papers of the petitioner as well as papers of Shradha and Nandkumar. He would submit that no validity certificate was ever issued to the relatives of the petitioner. The oldest record is of 1962 which is of caste 'Koli'. It further reveals that school record of Khanderao showing caste as Koli Mahadev was reported to be manipulated. There was no cogent material produced by the petitioner to corroborate his tribe claim and the Committee has arrived at proper decision.

6. We have considered the rival submissions advanced across the bar. The petitioner is not relying upon any validity certificate but banking his claim on the documentary evidence of himself, father and relatives namely Satish, Mukesh and Shamsundar. The entry in the school record of his father of 1978 is relied on. As against that during the vigilance inquiry, the incompatible school record of petitioner's father, uncle and cousins was discovered. Out of that his father's school record indicated caste as Koli, as under :

Sr. No.	School Name	Caste	Date of Admission
1	Z.P. Pre-Primary School, Bairly, Taluka Mukhed, Dist. Nanded.	Koli	24.07.1964
2	Z.P. Pre Primary School, Bairly, Taluka Mukhed, Dist. Nanded.	Koli	29.06.1984

7. It further reveals during the vigilance inquiry that the school record of cousin uncle – Narayan and Baburao was indicative of caste – Koli which is oldest one, that of 1962. Besides that the manipulation in the school record of Ram,

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Vimal, Pundlik and Khanderao was noticed. Following are those entries :

Sr. No.	School Name	Students	Relationship with Petitioner	Caste	Date of Admission
1	Z.P. C.P. School, Kumtha, Ahmedpur.	Narayanrao Manikrao Yamalwad	Cousin Uncle	Koli	17.07.1962
2	Z.P. C.P. School, Kumtha, Ahmedpur.	Baburao Kishanrao Yamalwad	Cousin Uncle	Koli	17.07.1962
3	Z.P. Pre Primary School, Bairly, Taluka Mukhed, Dist. Nanded.	Govind Tukaram Narnadekar	Uncle	Koli	10.07.1969
4	Z.P. Pre Primary School, Bairly, Taluka Mukhed, Dist. Nanded.	Ramesh Maruti Yamulwad	Cousin	Koli	
5	Z.P. Pre Primary School, Bairly, Taluka Mukhed, Dist. Nanded.	Sanjay Maruti Yamulwad	Cousin	Koli	

8. The report was served upon the petitioner and his reply was solicited. We have gone through the reply. The entry of his father of 29.061984 is disputed. But the school entry of his father of 24.07.1964 has not been disputed which is Koli. It is submitted that the entry of caste Koli be treated as either Koli Malhar or Koli Mahadev. In the Constitution (Scheduled Tribe) Orders, 1950, Part IX – Maharashtra, following are the relevant entries :

29	Koli Mahadev, Dongar Koli
30	Koli Malhar

. As against above entries, Koli is included as Other Backward Classes at Serial No.55. Only Koli Malhar and Koli Mahadev are the scheduled tribes. They are included in different entries. Koli can never be treated as either Koli Malhar or Koli Mahadev.

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9. We find that the petitioner failed to give satisfactory explanation for the contrary entries. Rather contrary entry of his father of 24.071964, has been admitted. The Committee has rightly recorded that the school record of blood relatives of the petitioner is incompatible with the tribe claim especially the oldest record of 1962 of Narayan and Baburao.

10. It reveals from the vigilance inquiry that Nandkumar Khanderao is the cousin of the petitioner and Shradda is his daughter. Their tribe certificates were invalidated by the Committee. Their record was available, from which the school entry of Khanderao of 1952 was traced. It was found to be bogus. It is the plea of the petitioner that Khanderao is not related to him. Learned AGP has made available original papers of Nandkumar and Shradda. The comparison of the genealogy in the present matter with the genealogy of Nandkumar's matter shows that the petitioner is lineal descendent of branch of Balaji and Khanderao is falling in the branch of Santuka. Balaji and Santuka are real brothers and sons of Appaji. Though Khanderao is not grandfather of the petitioner, but certainly he is within the blood relationship.

11. From the files of Nandkumar and Shradda, the coloured photocopy of school record of Khanderao is shown by the learned AGP. It reveals that entry of Khanderao is objectionable and the finding recorded by the Committee in respect of said entry cannot be said to be preverse. This bogus record

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discovered during the vigilance has been rightly appreciated by the Committee.

12. The date of birth of Khanderao appears to be 16.05.1947. In the year 1952-1953, he was admitted to the Pre-Primary School and on 20.04.1954 shown to have passed 3rd standard which is logically not possible.

13. From the files of Shradda and Nandkumar, the revenue entries of Santuka and his sons were recovered which disclosed caste as Koli of 1951 Fasli. Due to such contrary record no fault can be found with the Committee in discarding the claim.

14. Pertinently, the petitioner could not get through the affinity test. The oldest record available is against him. There is no convincing material to support the tribe claim of the petitioner. We have no hesitation to hold that the Committee has arrived at just conclusion which is plausible. We, therefore, find no substance in the writ petition.

15. The writ petition is dismissed.

16. In view of disposal of the petition, nothing survives in the civil application. The same is disposed of.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

Najeeb..

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