



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6340 OF 2009

Laxman Lachmanna Kumarwad Petitioner

Versus

01. The State of Maharashtra
and others Respondents

Shri S. R. Barlinge, Advocate for the Petitioner.

Shri V. H. Dighe, A.G.P. for the Respondents No. 1 and 2.

Shri K. C. Sant, Advocate for the Respondent No. 3.

Shri U. S. Malte, Advocate for the Respondent No. 4.

**CORAM : NARESH H. PATIL, AND
N. D. DESHPANDE, JJ.**

DATE ON WHICH CLOSED FOR ORDERS : 19.03.2010

DATE ON WHICH ORDER PRONOUNCED: 25/03/2010

ORDER [Per N. D. DESHPANDE, J.] :

01. Heard both sides.

02. By this writ petition, the petitioner above named seeks to challenge the judgment and order dated 08.07.1999 passed by the respondent No. 4/Caste/Tribe claim Scrutiny Committee and consider his claim for admission and other benefits from the category of Scheduled Tribe, as belonging to "Mannerwalru" (Scheduled Tribe).

03. The petitioner is a student, resident of Ratnali in Tahsil Biloli, District Nanded. He claims to be belonging to Mannerwalru (Scheduled Tribe) on the basis of a caste certificate issued to him by Sub Divisional Officer, Degloor, on 06.02.1998 (Exhibit - A).

04. It is not disputed that for further education petitioner was admitted in Yashwant Mahavidyalaya, Nanded and was studying in the 11th standard at the relevant time and accordingly his caste certificate dated 06.02.1998 was referred to the respondent No. 4/Scrutiny Committee by the Principal, Yashwant Mahavidyalaya, Nanded for verification. The respondent No. 4 referred petitioner's case to the vigilance cell. Vigilance Officer conducted home inquiry and in its report observed that petitioner is the only educated person from his family and there was no

other school record available in respect of father or uncle of the petitioner and further stated that in school record his caste is "Mannerwalru".

05. Pursuant to the notice of the Scrutiny Committee along with vigilance officer's report, petitioner appeared before the Scrutiny Committee and submitted his reply and requested to maintain his claim belonging to Mannerwalru (Scheduled Tribe) before the Scrutiny Committee.

06. The bone of contention of the petitioner is that there is no contra evidence found in the vigilance officer's report, as such, his claim ought to have been favourably considered by the respondent No. 4/Scrutiny Committee. However, respondent No. 4/Committee by its impugned judgment and order dated 08.07.1999 declined his tribe claim and as such, it requires reconsideration in the light of vigilance cell report stating his school record as Mannerwalru. No reply came to be filed by the respondent No. 4/Committee before this Court, though time was sought earlier.

07. Learned counsel Shri Malte for the respondent No.

4/Scrutiny Committee submitted that now it is not mandatory to file the reply on record by the respondent No. 4/Committee, which is the authority constituted for verification of the caste/tibe claim for validating the certificate and is not bound by the vigilance officer's report. It should take its independent decision on the basis of material placed before it for its satisfaction. It is also urged that each case has to be decided on its own merits and thus, supported the impugned judgment and order of the respondent No. 4/Scrutiny Committee giving out necessary reasons for recording its findings in the present case which call for no interference.

08. Original record is also made available for perusal of this Court at the stage of admission, pointing out inadequacy of evidence in the present case and some material discrepancies also.

09. Perused the record and proceedings and the impugned judgment and order of the respondent No. 4/Committee. The petitioner placed heavy reliance on the validity certificate issued to his relative namely Nagesh Dattaram Lakhamawar pursuant to the decision of this Court, passed in Writ Petition No.

1940/1990 dated 06th March, 1991 and also affidavit of Nagesh Dattaram Lakhamawar stating his relations with the petitioner.

10. On perusal of the record and the vigilance cell report, it is seen that said Nagesh Dattaram Lakhamawar did not describe the alleged relationship with the petitioner in his affidavit and in the vigilance cell report, it is categorically observed that said Nagesh Lakhamawar is not real or blood relative of the petitioner. Admittedly, the father also did not hold caste/tribe certificate as alleged and petitioner alone holds a caste certificate of Mnnerwalru (Scheduled Tribe) from Sub Divisional Officer, Degloor dated 06.02.1998.

11. On perusal of the impugned order of the respondent No. 4/Committee it is found that it has taken into consideration the vigilance cell report and all five documents produced by the petitioner. The petitioner was given an opportunity to appear and of personal hearing on 28.04.1999. His father's statement was also recorded and respondent No. 4 did not find any material in support of the alleged Tribe Claim. It is true that parents of the petitioner did not go to school and as such, there is no school record available to the petitioner. However, there is no

supportive evidence, revenue record, etc. produced on record and the documents and affidavits filed by others are not of blood relations. The petitioner's school record is of the year 1986, it is so observed in the impugned judgment. There is no genealogy on record to understand or appreciate the petitioner's relations with so called relatives. It is further observed that the Executive Magistrate has issued the certificate to the petitioner in a very casual manner. Thus, it is seen that the respondent NO. 4/Scrutiny Committee has given personal hearing and all opportunity to the petitioner and passed the impugned order after scrutinizing all material produced by the petitioner and is based on what is produced and made available to the Committee.

12. We have also examined the impugned order of the Scrutiny Committee in the light of authority reported in **2006 (3) Mh. L. J. 536, Vaijnath vs. Scrutiny Committee and another** relied by the petitioner and with regard to the facts of the case and in the matter of appreciation, considering limited scope of judicial review, we do not feel it necessary to interfere with the impugned judgment and order of the scrutiny committee.

13. The petitioner has failed to make out the case. In the result the petition must fail. Accordingly, the petition stands dismissed.

[N. D. DESHPANDE, J.]

[NARESH H. PATIL, J.]

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