

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4314 OF 2007

Purushottam s/o Shankarrao Gajulwar .. PETITIONER

VERSUS

1) The State of Maharashtra & Ors. .. RESPONDENTS

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Shri S.M.Vibhute Advocate for Petitioner;
Shri S.K.Tambe, AGP for State.
Shri M.S.Deshmukh, Advocate for Respondent No.2.

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CORAM: P.V.HARDAS &
S.P.KUKDAY, JJ.
Date : 29.1.2008.

P.C.

. In the present petition, the petitioner has impugned the order of Respondent No.2-Scrutiny Committee dated 29th March, 2007, invalidating tribe claim of the petitioner as belonging to "Mannerwarlu", Scheduled tribe.

2) The petitioner is native of Markhel, Tq. Degloor, District Nanded. He was elected as member of Gram Panchayat of the village. Therefore, tribe claim of the petitioner to "Mannerwarlu" caste was referred to Respondent no.2-Committee. Respondent No.2-Committee followed the required procedure. After enquiry by the Vigilance Cell, it was found that the tribe claim of the petitioner is not substantiated by the material collected during the course of the enquiry. A notice was,

therefore, served on the petitioner to submit his explanation to the adverse report submitted by the Vigilance Cell. Upon giving him an opportunity of being heard, the Committee found that the documents produced on record do not substantiate tribe claim of the petitioner to "Mannerwarlu" tribe.

3) The petitioner makes a grievance that adequate opportunity was not given to him for giving detailed explanation to the adverse report of the Vigilance Officer. A copy of the report was given to him on 22nd March, 2007 and the hearing was taken on 23rd of March, 2007. According to the petitioner, an entry in respect of "Munarwad" caste recorded in the School Admission Register of his real brother - Manohar has not been properly considered. In fact, after securing permission from the Education Officer, the entry is corrected in the School record. Other documents along with validity certificates of his blood relatives of the petitioner are submitted before the Committee. The Committee has ignored all these documents, therefore, the impugned order deserves to be quashed and set aside.

4) Learned Counsel for the petitioner Shri Vibhute contends that no opportunity of being heard was given to the petitioner. The documents and other evidence is also

not properly considered by the Scrutiny Committee, therefore, the impugned order be quashed and the matter be remanded for fresh enquiry.

5) Per contra, learned Counsel for Respondent No.2-Scrutiny Committee Shri M.S.Deshmukh has referred to the relevant observations from the order of the Scrutiny Committee. According to the learned Counsel, all the aspects are properly considered and the decision is given after providing adequate opportunity of being heard to the petitioner. According to Shri Deshmukh, no fault can be found with the impugned order and the order deserves to be confirmed.

6) We have carefully considered the material placed on record. Respondent No.2-Scrutiny Committee has referred to the entry in respect of Madhukar, who is real brother of the petitioner. In Zilla Parishad School Register, Markhed, Tq. Degloor, the entry in respect of Madhukar shows the caste as "Munarwad". Apart from that, the caste of other blood relatives of the petitioner, whose names are given by the Committee in the table found in para no.8 of the order, does cast a cloud on the tribe claim stake by the petitioner. Learned Counsel for the petitioner Shri Vibhute has pointed out that the entry in respect of his brother has been subsequently corrected by the order

of the Education Officer. The Committee has rightly ignored this subsequent correction as the justification for the same has not been established.

7) Learned Counsel for the petitioner Shri Vibhute has contended that he has filed validity certificate of Parvati, who is daughter of his cousin uncle Ashok, on record. According to the learned Counsel, this validity certificate of Parvati substantiates tribe claim of the petitioner. Learned Counsel for Respondent No.2 has produced original files of Parvati and the petitioner for our perusal. The files show that genealogy shown by both the claimants is totally different. In this view of the matter, no fault can be found with the conclusion of Respondent-Scrutiny Committee that validity certificate issued in favour of Parvati does not substantiate tribe claim of the petitioner. Learned Counsel Shri Deshmukh has rightly contended that manipulation in the record of real brother of the petitioner and the genealogy submitted on record is proved, this itself negatives the tribe claim of the petitioner. The Committee has considered all the documentary evidence submitted by the petitioner on record. The material placed on record further shows that the petitioner is not conversant with the traditional customs of "Mannerwarlu" tribe. He, has, therefore, failed to prove his ethnic linkage to Mannerwarlu,

scheduled tribe. Therefore, contention of learned counsel for the petitioner that the tribe claim has been properly proved by the petitioner, cannot be sustained. Learned Counsel has further pointed out that proper opportunity was not given to the petitioner for submitting explanation to the adverse report of the Vigilance Cell. We have perused the explanation furnished by the petitioner from the files produced before us. We are satisfied that the petitioner has explained all the points and that he had requisite opportunity of being heard. It is not in dispute that this grievance was not raised by the petitioner till filing of the present petition. Considering all these facts, we do not find any substance in the contention of learned counsel that proper opportunity of being heard was not given to the petitioner.

8) In the light of the aforesaid discussion, as the basic record of real brother of the petitioner namely Madhukar, shows caste as "Munarwad" and the fact that the Committee has properly appreciated the evidence produced by the petitioner, the order of Respondent No.2-Scrutiny Committee does suffer from any infirmity. We, therefore, confirm the order passed by the Respondent No.2-Scrutiny Committee invalidating the tribe claim of the petitioner and consequently the petition must fail and is dismissed

accordingly. However, there shall be no order as to costs.

(S.P. KUKDAY, J.)

(P.V.HARDAS, J.)

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