

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3730 OF 2007.

Rajiv s/o Gangaram Buchalwar ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr. A.H.Koralkar, advocate for the petitioner
Mr. S.K.Kadam, A.G.P. for respondent nos. 1 and 3
Mr. M.S.Deshmukh, advocate for respondent no.2

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CORAM : P.V.KAKADE
AND
P.R.BORKAR, JJ.
DATED : 10.7.2007

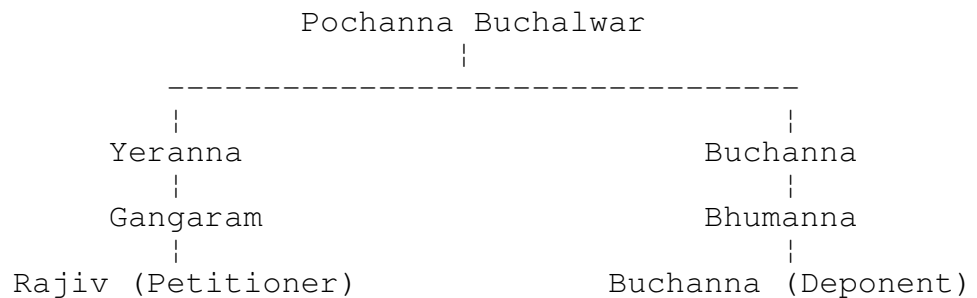
PER COURT :

1. The petitioner has filed this petition being aggrieved by the order dated 21.3.2007 passed by respondent no. 2 Scrutiny Committee rejecting the tribe claim of the petitioner as belonging to Mannerwarlu Tribe.

2. The petitioner was selected to the post of Shikshan Sevak by respondent no. 4 against a seat reserved for Scheduled Tribe category. Thereafter the the petitioner referred caste certificate issued by the Sub-Divisional Officer, Degloor to respondent no. 2 Caste Scrutiny Committee. Ultimately the claim of the

petitioner was rejected by respondent no. 2 Scrutiny Committee on 21.3.2007.

3. It is argued before us that the Scrutiny Committee did not consider properly the validation certificate issued to one Bhuchanna Bhumanna Buchalwad, who is cousin of the petitioner. The certificate of validity of tribe's claim of Bhuchanna Bhumanna Buchalwad is produced at Exh. 'D' and it is also enclosed with the affidavit of said Bhuchanna Bhumanna. Bhuchanna Bhumanna in his affidavit stated that the petitioner Rajiv Gangaram Buchalwar is his first cousin. There is one more affidavit dated 10.10.2005 of same Bhuchanna in which he again reiterated that the petitioner is his first cousin. Along with affidavit dated 10.10.2005 genealogy is given by Bhuchanna. It is at page 32 of the paper book provided by the petitioner. The relevant relationship may be stated as below :-



4. On the other hand, on page 54 the petitioner has

given details of his family tree and according to the petitioner, his father was Gangaram, grand father was Yeranna and great grand father was Buchanna; whereas his uncle's name was Rajanna and Rajanna has one son Parshuram. The petitioner has another uncle by name Gangaram Yeranna. The question arises how the petitioner's father, so also father's brother could be both Gangaram. The genealogy given by Buchanna clearly falsifies his statement that the petitioner is his first cousin. They could be at the most 2nd degree cousin, but in both the affidavits Bhuchanna who is a doctor says that the petitioner is his first cousin.

5. Another document on which the petitioner relies is one Urdu document which is produced on record and therein it is stated that Buchanna Potanna who was seller was of Mannerwarlu caste. The petitioner claimed that this was document by his grand father, but it is abundantly clear from the genealogy given by Dr. Bhuchanna at page 32 that grand father of the petitioner was Yeranna and his father was Pochanna. Bhumanna Potanna was not the grand father of the petitioner though he was grand father of Dr. Bhuchanna. Respondent no. 2 Scrutiny Committee, so far as this Urdu document is concerned, has observed that if in 1948 grand father of the petitioner-Buchanna Potanna was

aware of his caste being Mannerwarlu, why his blood relatives' caste was mentioned in 1967 as "Munurwad" in school record. So, it is doubtful whether really Dr. Bhuchanna was related to the petitioner.

6. The Vigilance Cell found that the entries of the blood relations of the petitioner in 1970 to 1975 in school record were as Munurwad and only after 1975 we found entries of Mannerwarlu. The Scrutiny Committee has considered all documents on record. So far as validity certificates of Bhandare Rajeshwar Gangaram and Saynod Kapil Parshuram, it is observed by the Scrutiny Committee that they were relatives from maternal side and, therefore, their validation certificates are not relevant. Affidavits to that effect are produced before this Court at pages 58 and 59.

7. The petitioner has given say to the report of the Vigilance Cell which has collected school record of relatives of the petitioner from 1961. The report shows that though Bhuchanna Bhumanna Buchalwar was shown to be 'Hindu, Mannerwarlu' in the school record at Entry No. 1095 there was scoring/alterations in the entry. The petitioner in his say/representation dated 29.7.2006 (Exh. 'H') on the Vigilance Cell report has stated that except Bhuchanna Bhumanna, Piraji Gangaram, Ratan

Bhumanna, Shobha Bhumanna others were not related to him.

8. Respondent no. 2 Scrutiny Committee has given sufficient reasons for not accepting the claim of the petitioner. It was satisfied that there was strong school record continuously from 1961 onwards to show that the petitioner was 'Munurwad' by caste and only recently there were entries of relatives of the petitioner of being Mannerwarlu tribe. "Munurwad" is admittedly Special Backward Class. In the facts and circumstances of the case, we do not find any sufficient reason to interfere with the order of the Scrutiny Committee. The burden is necessarily on the petitioner to prove.

9. Learned advocate for the petitioner relied upon the case of Narayan Deoji Koli vs The State of Maharashtra [1990 (1) Bom.C.R. 557]. It is observed therein that the claim cannot be negated only on the basis of School Leaving Certificate. However, in that case other material such as documents pertaining to near relatives and affidavits were considered and were found enough to negative entry in the school record.

10. Another case cited is Varsha Ramsing Dhanavat vs

State of Maharashtra [2006 (4) Mh.L.J.676]. It is stated therein that validity certificates issued by committee to the relatives of the claimant must be treated as weighty piece of evidence and cannot be brushed aside.

11. In this case, Bhuchanna Bhumanna claimed himself to be real cousin of the petitioner, but the petitioner's father had only two brothers Rajanna and Gangaram and, therefore, Bhuchanna could not be the first cousin as claimed in the affidavit.

12. The Scrutiny Committee has also observed that tampering in the school record of Bhuchanna Bhumanna Buchalwar (Entry No. 1095), Ratan Bhumanna Buchalwar (Entry No. 1591), Piraji Gangaram Buchalwar (Entry No. 1671) and Vitthal Sayanna Buchalwar (Entry No. 1797). Admittedly they are relatives of the petitioner. In entries of these persons in school record, there are overwriting, change in ink. So even in case of Dr. Bhuchanna there was an attempt to change the school record to claim particular tribe. Changes are not in case of one or two, but as many as four persons whom the petitioner claims to be his close relatives. This report of Vigilance Cell raises question mark even on the validity certificate issued in favour of Bhuchanna

Bhumanna.

13. It is worth noting that the petitioner has not given the necessary information regarding traditions, customs, characteristic, traits, etc. to the Vigilance Cell. In his say/representation dated 29.7.2006 (Exh. 'H') he assured to submit the same subsequently at proper time, but that does not appear to have been given. So that speaks for itself. The Committee has also observed at the end that whatever brief information has been furnished by the applicant about traditional occupation, god/goddesses, surnames and custom culture, etc. are not associated with the real Scheduled Tribe community.

13. In the facts and circumstances, we do not find any merit in the petition. The petition is, therefore, dismissed.

(P.R.BORKAR, J.)

(P.V.KAKADE, J.)

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