

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

WRIT PETITION NO. 591 OF 2021

**VIVEKKUMAR S/O. SAYANNA AADPOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 515 OF 2021**

**SAYANNA NAGNATH AADPOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioners : Mr. S.M. Vibhute
Addl. G.P. for Respondents : Mr. P.S. Patil
Advocate for Respondent No. 4 in WP/591/2021 :
Mr. S.B. Pulkundwar

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATED : 26 June, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. With the consent of the parties both the petitions are heard finally at the admission stage.

2. The petitioner in Writ Petition No. 515 of 2021 is the father of petitioner in Writ Petition No. 591 of 2021. The caste certificates of both the petitioners were invalidated by the Scrutiny

Committee. The material on record is identical. For the sake of brevity, we are referring to the compilation of Writ Petition No. 591 of 2021. Both the petitioners were belonging to Scheduled Tribe 'Mannervarlu'. Writ Petitioner Vivek Kumar is a student and, therefore, considering the urgency both the petitions were heard together.

3. The petitioner in Writ Petition No. 515 of 2021 was in service as Livestock Development Officer on the basis of the caste certificate. The said caste certificate was invalidated by order dated 24 October 1983, passed by Director of Social Welfare Maharashtra State, Pune.

4. Being aggrieved by said order Appeal No. 18 of 1983 was preferred before Director of Development Cum Additional Commissioner. By the impugned order dated 18 April 1984, the Appeal was dismissed. After dismissal of appeal, petitioner Sayanna did not challenge that order within reasonable period. It was challenged on 05 January 2021 by present Writ Petition. It is contended that he was not aware of the decision of the Appellate authority invalidating his claim.

5. So far as Writ Petition No. 591 of 2021 is concerned, the

caste certificate of the petitioner was invalidated by the Scrutiny Committee on 27 November 2020. During the course of the scrutiny his father had filed affidavit. It was not disclosed in the said affidavit which is at page No. 58 that his caste claim was invalidated way back on 24 October 1983, and appeal against the same was also dismissed on 18 April 1984. The statement of father was also recorded which is also silent about this aspect of the matter.

6. After the invalidation of the claim of petitioner Vivek Kumar, on 14 December 2020, an application was submitted which is at page no. 86 by his father stating that he was faintly recollecting, filing of appeal before Tribal Development-Cum-Additional Commissioner, Nashik. However, there was no communication about the decision.

7. In case of both the petitioners the school and revenue entries, the affidavits and other material in support of their claim was common. The Scrutiny Committee considered the school and revenue entries of the various relatives. It was found that the school entries of the relatives of the petitioner during the time 1963 to 1987 were inconsistent with their claim. There were contrary entries of the relatives. School record of the relatives were found to be tampered.

8. The Scrutiny Committee refused to rely upon the validity of the mother of the petitioner and his cousin maternal uncle, they being related from maternal side. The affinity test was also found to be against the petitioners.

9. It was specifically recorded at page no. 81 of the impugned judgment that it was suppressed that the caste claim of petitioner Sayanna was invalidated on 14 October 1983, and the appeal against the same was also dismissed on 18 April 1984. Information supplied on affidavit was misleading. Thus for above reasons, the caste claim of Vivek Kumar was invalidated.

10. The caste claim of petitioner Sayanna was invalidated for the reason that the transfer certificate and school leaving certificate were found to be doubtful by the trial authority. A petitioner and his father failed to explain whether caste Mannervarlu and Kolam were same or not. In appeal findings were confirmed by the appellate authority. It was further held that birth extract of the petitioner was not produced and affidavit of Yellappa was not reliable for want of validity in his favour.

11. Learned counsel for the petitioner placed reliance upon judgment passed in the case of *Vijayalaxmi Kishanrao Ambulgekar*

Versus Government of Maharashtra, dated 15 October 1985, in Writ Petition No. 471 of 1985 and State of Maharashtra Versus Mana Adim Jamat Mandal, reported at (2006) 4 SCC 98. It was tried to be submitted that caste Mannervarlu and Kolam were at the same entry and separated by punctuation mark comma. In that case, Kolam cannot be treated as sub-tribe of Mannervarlu but it is deemed to be a separate tribe by itself. The judgments relied above are not relevant to decide the controversy involved in present petitions.

12. Both the petitioners suppressed that the caste claim of petitioner Sayanna was invalidated on 24 October 1983. His Appeal had also failed on 18 April 1984. The justification tendered by Sayanna is not at all convincing. He suffered adjudication and consciously had preferred Appeal No. 18 of 1983. Only inference which can be drawn is that for obvious reasons he suppressed these facts from the scrutiny committee. Both the petitioners took chances. Therefore, the committee is justified in holding that there was suppression of material facts while rejecting the caste claim of Vivek Kumar.

13. It cannot be lost sight of that Sayanna was in service and thereafter superannuated. He derived the benefit of his caste without

challenging judgment dated 18 April 1984, in time. He filed petition on 05 January 2021, sensing that his son's claim would be jeopardised. This conduct of Sayanna is deprecated.

14. It is transpired from the record in the matter of Vivek Kumar that the affidavits were filed in support of his claim. His father Sayanna has also filed affidavit. In none of the affidavits, it was disclosed that Sayanna's claim was invalidated in the year 1983 and the same was confirmed in Appeal in the year 1984. There was deliberate suppression of facts to mislead the Scrutiny Committee. Surprisingly, statement of Sayanna which was recorded is also silent about this aspect of the matter.

15. The petitioner Vivek Kumar had filed reply to the vigilance cell's report. He did not disclose the invalidation of caste claim of his father in the year 1983 and dismissal of the appeal against same in the year 1984. This is according to us, a dishonest conduct.

16. In view of the conduct of both the petitioners, we are not inclined to exercise our discretion in their favour. Both of them have not come with clean hands and tried to take the disadvantage of the situation.

17. The Scrutiny Committee considered the contrary entries of the school record. The tampering was also found by the Scrutiny Committee. With the assistance of learned AGP, we have gone through the record produced during the course of the hearing. The photocopies of the relevant entries revealed that the close relatives of the petitioners Sayanna, Shashikala, Sangita, Ramalu, Mahadana and Sainath were having inconsistent caste recorded in the school record.

18. We find that there is a tampering of school record in case of Sayanna Nagnath. The original caste was encircled and suitable caste was recorded over it. Further the tampering is found in case of Sayanna Sayanna also. Though, few of the entries are old entries but considering the tampering and manipulation those are not reliable.

19. We do not find that any error is committed by the Scrutiny Committee in rejecting the caste claims of the petitioners. In case of both the petitioners the authorities took into consideration relevant record and arrived at plausible view. In that view of the matter, both the petitions fail. We, therefore, dismiss the petitions. No order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

SPChauhan